FACTS AND ARGUMENTS

AGAINST THE ELECTION

OF

GENERAL CASS.

Respectfully addressed to the

WHIGS AND DEMOCRATS

OF

BY AN

OLD APPOINTMENT

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AGAINST THE ELECTION

OF

GENERAL CASS,

Respectfully addressed to the Whigs and Democrats of all the Free States,

BY AN ANTI-ABOLITIONIST.

INTRODUCTION.

In offering the following remarks against the extension of slavery over the present or future territories of the United States, and over the new States which may rise in them, as reasons against the election of General Cass, or General Taylor, to the Presidency, I wish, in the commencement, to preclude all misconception of my motives or design. I am not an abolitionist. Preferring no charges against any sect, or party, denominated abolitionists, suggesting no doubts of their honesty or philanthropy, and regarding as "the idle wind," the prejudices and animosities which their *name* excites among the ignorant, or the interested, I doubt the expediency, or even practicability, of their remedy for slavery, immediate and unconditional emancipation. And I thoroughly disapprove every attempt, design, or wish, to dissolve the Federal Union. United by community of origin, language, jurisprudence, political institutions, and by that noblest of all human compacts, though still imperfect, the Federal Constitution, the people of the Free and Slave States are brethren and kindred. Hence, instead of being strangers, far less enemies, they should be united by community of interest and feeling. The North and South nobly sustained each other in the dark days of the Revolution. May they continue to sustain each other in Freedom and Fraternity, united by the ties of common destiny,

"Till suns shall rise and set no more."

But this Union cannot be maintained, if perverted to the extension and perpetuation of wrong. Nor can it be maintained, if perverted by

one section of the Confederacy, to an instrument of unjust and humiliating domination over the other. About the wrong of slavery in the abstract, I will waste no argument; it being a subject on which, in this age of light, the enlightened and disinterested cannot disagree. I urge nothing against the rights over slavery retained by the Old Thirteen States, and by Kentucky and Texas; rights which, however condemned by reason and Revelation, and by all human experience, and however improperly extorted by some of those States, and unwisely yielded by the rest, are securely anchored by the Federal Constitution. But because unhallowed cupidity has covered too much by *Constitutional compromises*, and because timidity or temporary interests have permitted their extension far beyond their original ground, the South must not be permitted to extend them *indefinitely*, and thus make the Union an instrument of evil. A government established for the protection of human rights, must not be perverted to hewing them down. Slavery, which never should have been carried beyond the original Thirteen States, and even *there* should have been loaded with burdens insuring its speedy extinction, must not be made by the South, the weakest portion of the Confederacy, the chief purpose of the Federal Government, a great *National* object of perpetuation and extension. For the Free States, union on such terms would be *criminal*. Nor must the South be permitted to dictate all the National policy, to control the National Government, to make all the National interests subservient to its own, and to regard the North, Middle, and West, a great majority of the Confederacy, as united with it for the sole purpose of executing its decrees. To the Free States, union on *such* terms would be degrading.

In thus interfering with Presidential elections, I am no man's man; no man's champion, no man's assailant; have no personal end to promote, no friendships or animosities to gratify. My sole object is the exclusion of slavery from another square mile of territory. In pursuit of this object, I appeal to all men of the Free States, "Whigs," "Democrats," "Abolitionists," all, without partisan distinction; and I make the appeal as neither "Whig," "Democrat," "Barn-burner," nor "Hunker," but solely as an American citizen, free from local or partisan prejudices, and seeking the permanent honor and prosperity of *our Country*, and OUR WHOLE COUNTRY.

RUSSELL JARVIS.

New York, June 13, 1848

CHAPTER I.

A GREAT battle must soon be fought, both at the polls, and in the halls of the Federal Legislature, between the slaveholders and those who would prevent the extension of slavery. The parties are arming for the contest, and the slaveholders, to achieve success, are deluging the country with false doctrines. The far seeing believers in human progress may feel secure in the ultimate trinmph of right, because such is the decree of Providence. But will this absolve them from any proper efforts to accelerate that triumph? Through their neglect, wrong may prevail for ages to come, as it has, through the neglect of their predecessors, prevailed for ages past; and though right will surely come at last, yet for all the intermediate wrong which they might have prevented, and for all the suffering of its victims, they are responsible, at least to impartial posterity. This is the day of false doctrines against human rights; the day when opinions, not only in excuse, but in justification of slavery, are boldly avowed by those who, in the days of their Revolutionary Fathers, would have blushed under the bare suspicion. Those who once condemned slavery as a deplorable evil, and lamented their inability to emancipate their country from its blighting influences, now boldly defend it—in Congress, in the legislatures, and the press of the Slave States, and through politicians and aspirants in the Free States, as a salutary institution, a natural condition, a Divine ordinance, sanctioned by Revelation! And, as if this were not enough, they boldly insult the common sense of mankind, by proclaiming that, it is the best of all institutions for maintaining *free* government in purity and efficiency. Yes! the self-styled professors of that Democratic Republicanism which is founded upon the natural equality of rights, and has the warrant of Revelation in the command to all to do as they would be done by, boldly urge their daily violation of these rights, of this injunction, as the corner stone of a government which claims such rights for its foundation. And while thus boldly preaching these doctrines, they denounce all attempts to refute them as a violation of their constitutional rights, as an invasion of their domestic hearths, as fraught with insurrection, massacre to themselves, and dissolution to this glorious Confederacy. Did the poison of false doctrines infect slaveholders only, it might still find an antidote in the purer principles of the Free States. But the poison is doing its deadly work, in reconciling even the Free States to the guilt of slavery. Northern politicians, born and trained at firesides where slavery was ever regarded as a criminal violation of natural rights, a severe moral and political evil, gravely tell their constituents that it is necessary to the South; that the country can be afflicted by greater evils than slavery; that dissolution of the Union, an evil still more formidable, will inevitably follow any attempt of the Free States to arrest its progress. When the principles of a nation are falling before corrupting influences; when, through the seductions of interest, through dread of their responsibilities, a people renounce the pure sentiments, the high aspirations which once impelled and guided them, their institutions, however

excellent, are of short duration. Freedom, God's gift to man as the instrument of developing his noblest attributes, of discharging his highest duties, cannot animate corrupt hearts, or guide perverted minds. It has no fellowship with selfishness; no congeniality with injustice. If the first of poets uttered eternal truth in saying that,

> "Jove fixed it certain, that whatever day
> Makes man a slave, takes half his worth away,"—

so is eternal truth involved in the declaration, that, whoever robs another of his freedom, his social individuality, throws away more than half of his own worth. If without moral degradation, man cannot be enslaved, neither, without such degradation, can he be an enslaver. He cannot plunder, and be just. He cannot rob, and do as he would be done by. He cannot close his eyes to the injustice, the robbery, without moral perversion. Then, as this contest between right and might is speedily coming, and as right, though sure of ultimate triumph, may be temporarily overpowered, the duty of all who would contend for right, is to consider this danger of temporary defeat, and to spare no just efforts for an immediate, as well as a permanent victory. If the Free States are victors, they will arrest the progress, and prepare for the extinction of a baleful institution, which has long been in conflict with their interests and their rights; and the Slave States will finally reach the only safe ground, freedom, founded on universal equality of rights. If the Slave States prevail, their victory will endure for ages; they will blast a large portion of this continent with the plague of slavery; use it for ruling the Free States with a rod of iron; prepare for the extinction of slavery in blood, and for the severance of the Union into hostile fragments, desolating each other with civil war. The Slave States will contend for the extension of slavery over new territory, as their only, yet sure instrument of supremacy in the Federal Government; and the Free States, if true to themselves, to the country, to posterity, to human rights, will oppose this extension, as their only means of restraining a power which has been exercised against them with continually augmenting severity, and which has never yet hesitated in sacrificing to its own objects, present or prospective, their interests or their rights.

The following are *some* of the *demands* preferred by the slaveholders.

First. Whenever a Free State is admitted to the Union, a Slave State must be admitted to balance it.

Secondly. New States may enter the Confederacy without any conditions imposed by the Federal Government, excepting a republican Constitution; or, in other words, Congress have no power to interdict slavery, as a condition of such admission.

Thirdly. The citizen has no right of petition to Congress upon the subject of slavery.

Fourthly. The Federal Government is bound to interpose with foreign governments, for the surrender of fugitive slaves.

Fifthly. Congress cannot prohibit slaveholders from establishing slavery in the Territories.

Sixthly. The people of new territories cannot prohibit slaveholders from establishing slavery among them.

I find no foundation for either of these demands, in the Federal Constitution, or the Common Law, or the Laws of Nations; and in con-

sidering the important questions involved in this subject, I must refer to the intentions concerning slavery, not only of the Convention which devised the Federal Constitution, and of the States which adopted it, but of the wise and patriotic generation which achieved the Revolution, from their first step to their last, for the rescue of their liberties. If we find, in every step of their progress, from the commencement to the consummation of that glorious enterprise, declarations of rights, and assertions of principles, entirely inconsistent with slavery, and which, practically applied in social and political relations, would abolish it completely and irrevocably, we must infer that, having achieved their political emancipation, they entered upon their peaceful duties of self-government with no newly born, suddenly imbibed indulgence for domestic bondage. And if we find them, from their acknowledgment as a nation by the British government in 1783, to their departure from the Federal Convention in 1787, continually avowing principles and enacting laws against slavery, we *must* infer that, in their great work, perhaps their greatest, the Federal Constitution, they intended to leave no insidious constructions, no covert implications, against human rights.

Our Revolutionary Fathers began their great struggle as British subjects; as inheritors of all the natural and conventional rights of *Englishmen;* the rights which their ancestors possessed and brought with them on first landing upon American soil; the rights of life, liberty, property, opinion, and speech, transmitted through that Saxon Common Law, enlarged by the Norman Conquest, confirmed by the Great Charter and its various renewals, which had come down, continually improving, to their ancestors at the commencement of the seventeenth century, a guarantee for individual freedom, a barrier, a bulwark against social bondage. Slavery, in the sense in which we apply the term to the African race, had long ceased to exist in England, when the English colonists landed at Jamestown and Plymouth. And we must remember that these settlements were made in the reign of James I., when the principles and guarantees of political and social liberty were already well established in England; and that, from this period, the English at home were involved in continual struggles for their rights, always terminating in their favor. The interval between the landing on Plymouth Rock in 1620, and the Declaration of Independence in 1776, a period of one hundred and fifty-six years, had witnessed the overthrow of Charles I., the republican government of Cromwell, the restoration of Charles II. under new and enlarged guarantees for popular rights, the abolition of the remaining feudal tenures, the enactment of the present law of Habeas Corpus, the expulsion of James II. for his designs against popular rights, the Bill of Rights at the accession of William III., and the triumph of personal liberty in Wilkes under George III. And in all these popular triumphs did the colonists participate, every new guarantee for personal rights acquired at home, being *their* property as *Englishmen*. Nor must I overlook the various charters granted to the colonists at different periods, all recognising them as *English* subjects of the *English* crown, and consequently as invested with all the rights and privileges of *Englishmen*. Then, upon this foundation, *the rights and privileges of Englishmen*, did the people of the Old Thirteen Colonies stand at the commencement of the Revolution; from this point did they start in that great enterprise. If then, domestic slavery were entirely inconsistent with the rights and privileges of Englishmen, we must infer that, in appealing to the Lord

God of battles in defence of these rights and privileges, they never could have contemplated its perpetuation or extension.

A brief glance at the important proceedings of that period, will enable us to settle this question. At various periods in 1774, before the first meeting of the Continental Congress, the people of Prince George, Culpepper, Nansemond, Surrey, Fairfax, Hanover, and Princess Anne counties, in Virginia, in meetings in their respective counties, declared that the importation of negro slaves and convict servants prevented the settlement of the Colony by freemen and useful manufacturers, and that they would thereafter import no more of such slaves or servants. On August 1st, 1774, the people of all Virginia assembled by delegates in Convention at Williamsburgh, and resolved that they would not, after November 1st following, import any slaves from Africa, the West Indies, or elsewhere, or purchase any imported by others. Jefferson, a delegate to this Convention, but prevented by sickness from attending it, sent to it a declaration of his opinions concerning slavery, of which the following is an extract:

"The Abolition of slavery is the greatest object of desire in these colonies, where it was unhappily introduced in their infant state. But previous to the enfranchisement of the slaves we have, it is necessary to exclude all further importations from Africa. Yet our repeated attempts to effect this by prohibitions, and by imposing duties which might amount to a prohibition, have been hitherto defeated by his Majesty's negative; he thus preferring the immediate advantages of a few African corsairs, to the lasting interests of the American States, and to the rights of human nature, deeply wounded by this infamous practice."

On August 27, 1774, the people of North Carolina, assembled by delegates in convention at Newburn, adopted the following resolution: "We will not import any slave or slaves, or purchase any slave or slaves imported into this province by others, from any part of the world, after the last day of November next."

But in June, 1774, before the meeting of these conventions, three months before the first meeting of the continental Congress, and a few weeks after the battle of Lexington, the Legislature of Rhode Island, of ever brave, ever resolute, ever gallant, ever unquailing little Rhode Island, passed an act prohibiting the slave trade. As all such acts of the Colonies had been invariably rejected by the British crown, the boldness of this little Colony in thus braving British vengeance, within a few weeks after the battle of Lexington, and before the other Colonies had organized any general plan of resistance, is worthy of all commendation. I gladly cite the preamble of this act, for the justice of its sentiments, and for the severity of its rebuke to those who trample upon national rights. It is the following:

"*Whereas*, the inhabitants of America are generally engaged in the preservation of their own rights and liberties, among which that of personal freedom must be considered the greatest, and as those who are desirous of enjoying all the advantages of liberty themselves, *should be willing to extend personal liberty to others, therefore*, &c."

Then follow the prohibitory provisions against the slave trade.

On September 5, 1774, the Continental Congress assembled, all the old States being represented excepting Georgia, which sent delegates to it in the following year. On October 20, 1774, this Congress adopted "Articles of Confederation and Perpetual Union," saying: "We, for

ourselves, and the inhabitants of the several colonies whom we represent, firmly agree and associate under the sacred ties of virtue, honor, and love of our country, as follows:

"Article 2d. We will neither import nor purchase any slaves imported after the first day of December next, after which time we will wholly discontinue the slave trade, and we will neither be concerned in it ourselves, nor will we hire our vessels, nor sell our commodities or manufactures to those who are concerned in it."

On July 6, 1775, the Continental Congress presented to the world a *Declaration of Rights on taking up arms;* a declaration beginning with a sentence to which I would call particular attention, as it contains the fundamental principle on which slavery must stand or fall. It is the following:

"If it were possible for men who exercise their reason to believe that the Divine Author of our existence intended a part of the human race to hold an absolute property in, and an unbounded power over others, marked out by His Infinite Goodness and Wisdom as the objects of a legal dominion, never rightfully resistible, however severe and oppressive, the inhabitants of these colonies might at least require from the Parliament of Great Britain, some evidence that this dreadful authority over them had been granted to that body."

Here is a declaration in explicit terms, by the Continental Congress of 1775, representing States of which every one then held slaves, against the right, moral or political, of one portion of the human race to hold absolute property in another. It declares such unlimited dominion inconsistent with *humanity, with reason,* with *reverence for the Creator.* I want nothing more, for human language can express no more, as an *unlimited* condemnation of slavery.

But the Continental Congress did not confine themselves to these declarations against slavery. On April 6, 1776, they prohibited the importation of slaves into any part of the confederacy. Three months after the date of this prohibition came the DECLARATION OF INDEPENDENCE, proclaiming as *self-evident truths*, that, "*all* men are created equal," are "endowed by nature with inalienable rights," and that among these inalienable rights are "life, liberty, and the pursuit of happiness."

We must remember that the Continental Congress which uttered this great declaration, had already proclaimed their rights as *Englishmen;* rights which they described as transmitted from their ancestors; and that, in construing these rights, we must refer to the acknowledged, well established rights of Englishmen at that period; and to the well known fact, that, slavery was not then recognised by the laws of England, upon English soil. They were under no political necessity for making this declaration of fundamental principles; for a declaration of their political rights, of their right to representation in the British Parliament, to establish local legislatures, to nationality, would have been amply sufficient for their purpose. The right of rebellion, the right of any community to throw off the political yoke of any other community, had been fully recognised by the Laws of Nations, as understood and practised by all the Christian nations of Europe, and had been exemplified by Switzerland against the German Empire in 1308, by Sweden against Denmark in 1520, by Holland against Spain in 1580, and by Portugal against Spain in 1640. The Continental Congress was composed of men most distin-

guished, in each of the Colonies, for talent, experience in public business, social and political influence. Among them were the most eminent lawyers and statesmen of their time, meeting in that assembly with all the knowledge of constitutional and international law, acquired during the controversies of the ten preceding years between the British Government and the Colonies, and the controversies and wars between the British and French Governments about American territory, which began in 1749, and ended a few years only before the Declaration of Independence. As the war of 1756 was a contest of intellect as well as of force, of argument as well as of arms, of principles, precedents, and logic, as well as of battles and sieges, in all of which the Colonies were actively and conspicuously engaged, we cannot suppose that the Adamses, the Morrises, the Shermans, the Livingstons, the Wolcotts, the Hopkinsons, the Dickinsons, the McLeans, the Lees, the Pendletons, the Wythes, the Rutledges, the Middletons, the most eminent lawyers and politicians of their day, would come out of this contest without careful investigation of the various questions which it involved, of national right, of international law. We must also remember that the disputes between the British government and the Colonies about their respective powers and rights, began in 1764, twelve years before the Declaration of Independence; disputes in which the Colonies were driven, in self defence, to every position afforded by the British constitution, and finally to the original, natural, congenital right of self government. Can we suppose that such an assembly, composed of men thus thoroughly drilled in political law, under institutions fully recognising the freedom of speech and the press, with faculties stimulated and enlightened by long controversies in which they had personally borne a conspicuous part, were ignorant of the ground which they occupied? That such an assembly, thus coming before the civilized world in the name of a whole people, and solemnly appealing, in defence of their rights, to the common sense and justice of mankind, and to the Supreme Justice of Heaven, had not weighed well their words and knew not the force of their declarations? They fully comprehended every principle which they proclaimed, and were prepared to show in their justification, every argument supplied by reason, Revelation, precedent, historical record. And thus prepared, they would have amply satisfied the civilized nations to which they appealed, by reference merely to their rights as British subjects, and to the examples of successful and rightful rebellion in Switzerland, Sweden, Holland, and Portugal. They needed nothing more, for a full justification of their separation from the nation to which they had hitherto acknowledged allegiance, than a reference to their political rights, based on the merely conventional foundation of English Charters, English laws, and Swiss, Swedish, Dutch, Portuguese, and other precedents. All that they needed was a plain statement, based on foundations exclusively *human*, their conventional rights as British subjects, and their conventional right under the common Law of European nations, to establish a distinct nationality in defence of those rights. They were under no necessity of referring to *first principles*, older than the government whence they derived their conventional rights, older than any human government. Why then should they encumber their solemn declaration with references entirely extraneous? With reference to principles older than their conventional rights? Why should they go back to principles emanating from God, before an English foot ever

touched this continent? Aye! Before a Saxon or a Norman foot ever touched the soil of England? Because they intended to record their solemn protest against all tyrannies, all usurpations, all violations of rights. Because, in appealing to God and man for the justice of their cause, they intended to intrench themselves behind those principles which were designed, before the foundations of the world, for the government of its rational and accountable inhabitants. Because they intended to assert their rights, not only as Englishmen, but as men; not only as oppressed colonists, but as rational and accountable subjects of the Lord God Omnipotent, the Author of all legitimate authority! They appealed to *that Ruler* against *all* tyrannies, and in defence of national, original, congenital, inalienable rights, and *therefore* asserted that *all* men were *equal!!* And going back one year, to the declaration of the same Congress, on taking up arms against the British nation in defence of their rights as Englishmen, why, we may ask, did they not confine themselves to a statement of such rights, as in their first declaration upon establishing their colonial union, on October 20, 1774? In that first declaration they merely asserted their rights as Englishmen, without uttering a word about their rights as men. And as they had not, in making their second declaration, on July 6, 1775, resolved on a separate nationality, but had merely resorted to arms in defence of their rights as an integral part of the British nation, they required nothing more, to satisfy the world about the justice of their cause, than a reference to such rights only. But they go to the full length, in a single sentence, of declaring that slavery, in all forms, was condemned by reason, and forbidden by the Divine Government!

But as slavery then existed in every one of the thirteen colonies, why did not the Continental Congress expressly denounce it in the Declaration of Independence? Why did they leave it as a standing and reproachful commentary upon all these declarations, proclaiming that, while they asserted the great principles of universal emancipation, they held thousands of their fellow creatures in the most degrading bondage? They found slavery among themselves, imposed by the mother country, against their earnest, incessant remonstrances. Their whole colonial history proved that it had been introduced among them, not with their consent, but in spite of their opposition; that all their appeals to the British government against it had been contemned; that all their colonial laws to prevent the introduction of slaves, and to promote emancipation among those already introduced, had been invariably rejected by the British crown. The curse being fastened upon them, they could not suddenly throw it off. In Maryland, Virginia, the Carolinas, and Georgia, it was thoroughly interwoven with the social constitution, and could not be suddenly torn up by the roots. As domestic slavery was then extinct in all Christian Europe excepting Russia, and manorial slavery in all excepting Russia, Poland, Polish Prussia, and some States of the Austrian Empire, as both had been abolished for centuries in France, the Low Countries, Italy, most of Germany, and had scarcely ever existed in Spain and Portugal, the Continental Congress, in appealing to civilized nations for the justice of their cause, could not allude to slavery as existing among themselves for a single day with their consent, without incurring the reproaches of all the nations to whom they thus appealed. They anticipated from all such nations the significant inquiry, "Why, in appealing to the world and the Creator in defence of the natural rights of mankind, do you not abolish domestic

slavery, in the very moment, and by the very act, by which you burst the political bonds which bind you to Britain? In proclaiming *yourselves* free, why do you not grant the boon to your own slaves? Can you expect *our* sympathies, when you speak for liberty in the attitude of slaveholders, holding the sword in one hand, and the chain in the other? They anticipated these commentaries upon their appeals to first principles, and knew that general, immediate emancipation, however due to abstract justice, was impracticable upon any other condition than intolerable evils to bond and free, and therefore forbidden by humanity. Hence their only resort was avoiding all allusion to the curse, regarding it as a monster of whose presence they were painfully conscious, but with which they would not then deal according to its deserts. They therefore confined themselves to its implied condemnation; a condemnation involving an implied promise to extirpate it eventually, by a declaration of those principles with which it is thoroughly inconsistent, and before which it must eventually fall. Hence they proclaimed that property in man, unlimited dominion of one man over another, was inconsistent with the reason, and with the design of the Creator in the moral government of his creatures; that, *all* men were created *equal*, and endowed by nature with inalienable rights to life, liberty, and the pursuit of happiness. It was all that they could do, and they did it all. And they had the highest authority for this entire condemnation of an evil, by stating the general principle involving its removal, without specific allusion to its details. In the very midst of domestic slavery, of political despotism, of a social and political constitution whose enormities no tongue can adequately describe, whose head, guide, inspiring and ruling spirit could scarcely find a characterizing epithet in any modern language, in the very midst of *Roman* dominion under the auspices of *Tiberius*, came ONE to preach and to teach condemnation of all tyrannies. HE denounced not political tyranny by name, uttered naught against Roman laws or Roman governors, declared not that property in man was unlawful, or that masters must emancipate their slaves. But HE proclaimed two principles which involve all these condemnations, and before which, practically applied to the details of society, political or social, all tyrannies must vanish. HE said that *God was no respecter of persons;* in other words, that, "all men were created equal;" and that *all men must do as they would be done by:* in other words, that, they must respect the natural, inalienable rights of each other to "life, liberty, and the pursuit of happiness." Then as HE denounced all tyrannies without naming them, by proclaiming the two fundamental, universal, immutable principles which condemned them, so the Continental Congress, prevented by the irresistible pressure of surrounding circumstances, from condemning domestic slavery by name, confined themselves to proclaiming the fundamental, universal, immutable principles that involve its condemnation and prohibition.

Against all this cumulative evidence, how can we suppose that the United States, in their infancy, before the acknowledgment of their independence by their enemy, contemplated the extension of slavery, or did *not* look forward to its extinction?

But the war for independence being successfully concluded, the confederacy were at leisure to examine and regulate their domestic affairs, and to "provide new guards for their future security." The only Federal constitution then existing were the "Articles of Confederation,"

adopted by the Continental Congress, on July 9, 1778. These were not the "Articles of perpetual union and confederation" which had been adopted by the Continental Congress on October 20, 1774. Under that first Colonial union was the Declaration of Independence proclaimed; and after that great step, it still remained as the Federal constitution, or rather the Federal league or alliance of the States, till July 9, 1778, when the "Articles of Confederation" were adopted by Congress, and presented to the States for their ratification. Two years after this, on September 6, 1780, Congress recommended to all the States whose charters covered ungranted territory, to cede it to the confederacy for national purposes. The States without such territory had long urged this cession, saying that the lands acquired by the combined efforts of the States, ought to be their common property for their common use; and some of the small States refused to accept the "Articles of Confederation," till this cession were made or promised. Among the States thus claiming territories were New Hampshire, which claimed Vermont, whose inhabitants had proclaimed it a State and adopted a constitution in 1777; New York, which claimed the same territory, and a portion of the North-Western Territory; Massachusetts and Connecticut, which claimed portions of the North-Western Territory; Virginia, which claimed Kentucky, and the whole North-Western Territory; North Carolina, which claimed Tennessee; and South Carolina and Georgia, which claimed the "Georgia Western Territory," now part of Alabama and Mississippi. Of the claimants to the North-Western Territory, Massachusetts, Connecticut, New York, and Virginia, three held slaves; Massachusetts having emancipated its slaves by its constitution, in 1780. Congress, by their recommendation to the States of September 6, 1780, having advised the cession of this territory to the Union, adopted a resolution on October 10, 1780, stating that, "The unappropriated lands which might be ceded or relinquished to the United States, should be settled and formed into distinct republican States, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence as the other States." This resolution shows that the settlement of these vast wildernesses was then foreseen; for no mind intelligent enough to compare that period with the past, and comprehend how the Thirteen United States had grown from the small settlement of Plymouth, James River, Philadelphia, and a few other similar enterprises, could fail to foresee that yet other States, even mightier than their parents, would spring up in those vast regions then inhabited by savage beasts and savage men. And the wise generation of that period, in these mighty settlements, looked forward to brethren and kindred, and not to vassals; to sovereign States, members of the confederacy, and not to provinces, coming to ask the Union on bended knees, how they should be governed. Having drawn the sword to hew down the pretensions of Britain, they could not conscientiously use it in hewing down the rights of their future brethren of these new States; and hence they provided that, as the Old and the New would be united by the ties of blood, they should be united by those of a common government, a common confederacy, all being equally free, sovereign, republican. Pursuant to this great design, conceived and insisted upon by the States which professed no claims to this territory, the claiming States responded affirmatively to this resolution of Congress, and ceded the territory to the Union; New York and Virginia in 1783, Massachusetts and Connecticut in 1784.

The act of cession by Virginia, dated October 20, 1783, provided that, "The territory ceded shall be laid out and formed into States, and the States so formed shall be formed into republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other States;" and that, "The French and Canadian inhabitants and other settlers of Kaskaskias, St. Vincent's, and the neighboring villages, who profess themselves citizens of Virginia, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties." In addition to these stipulations, Virginia recommended that the territory, when settled, should be divided into three States. On July 7, 1786, Congress applied to Virginia for an alteration of its condition concerning the number of States into which the territory should be divided; and on July 13, 1787, fully confiding in the ultimate assent of Virginia to a division of the territory into five States, Congress passed the ever memorable ordinance for the government of this territory, which is now on the statute book of the United States, a perpetual compact between them and the five States of the Northwestern Territory, Ohio, Indiana, Illinois, Michigan, and Wisconsin.

Among the memorable epochs in the history of the United States, the adoption of this ordinance yields to none in importance. As a declaration of fundamental principles, it may well be placed beside the Declaration of Independence and the Federal Constitution. It is generally ascribed to Mr. Jefferson. I should be among the last to detract from the merits of this great apostle of human rights, great, even among the chiefs of the Revolution, the champion of that universal justice and philanthropy which, in the Revolutionary days of pure motive, high aspiration, and noble daring, sought the annihilation of social, as well as political bondage, the emancipation of the slave from his master, as well as the socially free colonist from his political oppressor. The author of the Declaration of Independence, the far-seeing purchaser of Louisiana, the uncompromising defender of right and opponent of wrong, he never failed to raise his voice in behalf of "the whip-galled slave," and against the Heaven-defying injustice that trampled upon his natural rights. But *Truth* is above all things, and demands the honor of engrafting a decisive provision against slavery upon the ordinance of 1787, for Rufus King, a delegate in Congress from Massachusetts.

In 1784, Mr. Jefferson, on a committee with Mr. Howell of Rhode Island, and Mr. Chase of Maryland, to report a bill for the government of the Northwestern Territory, reported an ordinance containing a prohibition of slavery after 1800. On April 19, 1784, Mr. Speight, of North Carolina, moved to strike out this provision; and as the rules of Congress required a majority of the States to sustain a proposition, and as six States, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and Pennsylvania, voted for Mr. Jefferson's proposition as New Jersey was divided, and as the remaining six voted against it, the proposition was lost for want of a majority, and stricken out upon this motion of Mr. Speight. This brief report of Mr. Jefferson contained no provision for the equal distribution of inheritances according to the Common Law, no provision for education, no guarantees for personal or religious liberty. These provisions of the ordinance finally adopted were introduced by another Committee, after Mr. Jefferson had left Congress. On March 10, 1785, he was appointed by

Congress, Minister to France, departed on his mission immediately, and did not return till 1789, two years after the adoption of this ordinance, and four years after the introduction of its provision against slavery. On March 16, 1785, a week after Mr. Jefferson's departure for France, Rufus King moved that the following proposition should be committed, as an instruction, to the committee on Western Territory.

"There shall be neither slavery nor involuntary servitude in any of the States described in the resolve of Congress of the 23d of April, 1784, otherwise than in the punishment of crimes, whereof the party shall have been personally guilty, and that this regulation shall be an article of compact, and remain a fundamental principle of the constitution between the thirteen original States, and each of the States described in the said resolve of the 23d of April, 1784."

This proposition, seconded by Mr. Ellery of Rhode Island, was sustained by all the States excepting Virginia, the Carolinas, and Georgia, which opposed it, and Delaware, which was divided; and thus adopted by a majority of *one* State, as an instruction to the committee on Western Territory, it remained in their hands till September, 1786. This committee, consisting of Messrs. Johnson of Connecticut, Pinckney of South Carolina, Smith of New York, Dane of Massachusetts, and McHenry of Maryland, then reported "an ordinance for the government of the Western Territory," containing Mr. King's proposition as it now stands on the Statute book of the United States, and substantially as presented by him on March 16, 1785. After a debate of several days, this report was referred to another committee, comprehending Messrs. Carrington and Richard Henry Lee of Virginia, Dane of Massachusetts, Keen of South Carolina, and Smith of New York, who reported it with slight modifications, in the handwriting of Mr. Dane. This last report, read on July 11 and 12 successively, and again on July 13, 1787, was adopted by the vote of every member of Congress, excepting Mr. Yates of New York.

This brief history shows that, as the proposition of Mr. Jefferson was offered and *lost* in 1784, and as he left Congress for France on March 10, 1785, one week before the proposition finally adopted was offered by Mr. King, and did not return till two years after its final adoption, we cannot claim for him the exclusion of slavery from the Northwestern States. This credit has been claimed, and by no slight authority, for Mr. Dane, who did not take his seat in Congress till November 23, 1785, eight months after the introduction of Mr. King's proposition. And while Mr. Jefferson's proposition proves his earnest hostility to slavery, and is thus consistent with all his previons and subsequent proceedings relating to that institution, yet the Free States, and the advocates of freedom everywhere, may congratulate themselves on its early defeat in the Continental Congress; for had it been adopted, the proposition of Mr. King would not probably have been offered, and if it had been, would still more probably have been rejected; and thus the ordinance of 1787 would have contained a prospective, instead of an immediate prohibition of slavery. Mr. Jefferson's project tolerated slavery for seventeen years; and as the institution already existed in every white settlement in the territory, the slaveholders already there would not have emancipated their slaves in view of this prospective prohibition; nor would it have deterred slaveholders from emigrating

to this territory with their slaves. And thus, when the time should arrive for this project to operate, the year 1801, the slaveholders of the territory, aided by the slave States, would probably have been strong enough to procure a repeal of this prohibition. Some have supposed that Mr. Jefferson suggested the proposition afterwards offered by Mr. King. But as history furnishes no evidence of this, we can test its probability only by reference to facts ascertained. After the failure of Mr. Jefferson's prospective prohibition, would he have undertaken something still more difficult, a measure of immediate and unconditional emancipation? No State voted against his proposition because it did not go far enough against slavery; for it was supported by six of the Northern and Middle States that afterwards sustained Mr. King's proposition; they being glad to obtain even a concession thus imperfect. And if Mr. Jefferson was afterwards inspired by new hopes, and conceived the proposition offered by Mr. King, why did he not introduce it, and thus not only obtain the high fame due to its introduction, but arm it with his own influence over the Southern States? If he conceived and prepared it immediately before his departure for France, and therefore could not await its disposition, why did he not leave it as a legacy to Congress, to his country, knowing that it would be sustained by each of the States which had already sustained his unsuccessful proposition? Massachusetts, one of the ceding States, had abolished slavery by its constitution in 1780, and had sustained Mr. Jefferson's defeated proposition in 1784. Hence the proposition of Mr. King was precisely the effort that might have been expected from Massachusetts; and his long and distinguished political career shows that he was original enough to conceive, bold enough to offer such a proposition, and candid enough to award due credit, had he acted on the suggestion of Mr. Jefferson.

This ordinance is important in showing that the Old Thirteen States in 1787, then united under the Federal Constitution of 1778, entertained no doubt about the power of Congress over all the territories; and that *all* the States then intended to prevent the extension of slavery. In ceding the North-Western Territory to the Union, neither of the claiming States imposed any condition concerning slavery. As Massachusetts had abolished slavery by Constitution in 1780, and Connecticut by Statute in 1784, they would have raised the question for the purpose of procuring a decision in their favor, had they entertained any doubts about the power of Congress over the subject; for being opposed to slavery, they never would have relinquished their claims to this territory, under any apprehension of its being delivered to that institution. And had the slave States entertained such doubts, they too would have raised the question, if they wished to keep the territory open to slave property. But both Congress and the State Legislatures were silent on the subject till the cession was complete; and then the very first act of Congress for the government of the territory closed it against slavery, and this act received an unanimous vote from every State in Congress, with the single exception of one delegate from New York. We want no stronger evidence of the acquiescence, by all the States, in the power of Congress over slavery in the territories, or of the wish among all the States at that time, to prevent the extension of slavery.

But this ordinance settles a question still more important, in saying that a Congressional injunction upon a territory against slavery, when

it shall become a State, does not restrain its *sovereignty*, in the sense of the term contemplated by the *Old* or the *New* Federal Constitution. Under the Old Constitution, the *sovereignty* of the States was much more ample than it is under the present, even according to the broadest construction of modern interpreters. The recommendation of Congress to the ceding States, to cede this territory to the Union for the purpose of being "formed into distinct Republican States, which should become members of the Federal Union, and have the same rights of *sovereignty*, freedom, and independence as the other States," considered in connexion with this ordinance, shows that Congress did not regard slavery as incident to State sovereignty, and that, in guarranteeing State sovereignty, it did not regard the right to establish slavery as one of its elements. The ordinance shows that a new State might still be sovereign like the other States, while for ever prohibited by the Union from establishing slavery. By the resolution of 1780, Congress avowed the intention of establishing sovereign members of the Confederacy in this territory. Yet by the ordinance of 1787, Congress perpetually prohibited the States that might be thus founded, from establishing slavery. The fifth article of this ordinance provides for the division of this territory into States, and for their admission into the Union "on an equal footing with the other States in all respects whatever;" and the sixth article imposes a perpetual prohibition upon such States, against slavery or involuntary servitude excepting for crimes. Congress saw no contradiction in these two provisions. *All* the delegates, with a single exception from New York, declared that a perpetual interdiction of slavery was no infraction of *State sovereignty*, or of the "equal footing in the Union" of all the States. And Virginia, one of the ceding States, assented to this right in Congress. By its Statute of October 20, 1783, Virginia not only transferred this territory to the Union, but stipulated that, "The Territory ceded shall be laid out and formed into States, and the States so formed shall be formed into republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence, as the other States." And by its statute of December 30, 1788, one year and five months after the date of this ordinance, Virginia acceded to the request of Congress about the division of the territory, and thus ratified all that Congress had previously done for it, including this interdiction of slavery.

This ordinance also establishes the principle, that, under the Constitution and laws of the Union, and even under those of the several States, slaves are not necessarily "property" or "possessions," and that the right to hold slaves is not necessarily included in the terms "rights and liberties." At the time of cession, the territory contained some settlements of slaveholders, and particularly one at Fort St. Vincent, near the mouth of the Wabash, and another at Fort Kaskaskias, near the junction of the Kaskaskias and Mississippi. Virginia, by its Act of Cession of October 20, 1783, stipulated that, "The French and Canadian inhabitants and other settlers of Kaskaskias and St. Vincent, and the neighboring villages, who profess themselves citizens of Virginia, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties." By this ordinance of July 13, 1787, Congress established in the territory the rules of the Common Law for the descent, conveyance, and testamentary disposition of property, as more consistent with Republican principles

than the old French laws then prevailing there, with an exception "saving to the French and Canadian inhabitants of the Kaskaskias, St. Vincent, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property." Did Virginia, by this saving clause in its act of cession, or Congress led by this saving clause in the ordinance, contemplate the security of these settlers in the slave property then held by them, or suppose that the ordinance, in prohibiting slavery in the territory, operated prospectively? THEY DID NOT. The ordinance directly abolished slavery, immediately and unconditionally emancipated all the slaves then in the territory; and to escape this immediate operation, some of the settlers moved, with their slaves, into Kentucky, then an independent State, and Louisiana, then a French Colony. They could not have carried their slaves into Virginia, that State having enacted a law in 1786, prohibiting the further introduction of slaves, and declaring *free* all imported contrary to such act. And after the adoption of the Federal Constitution, some of these settlers, inhabiting the Counties of Randolph and St. Clair, in the present State of Illinois, presented a petition to Congress for the repeal of the sixth article in this ordinance, and for an act to authorize slavery in the territory; which petition *was rejected*. Virginia made no complaint against this operation of the ordinance, but on the contrary, ratified and confirmed it nearly eighteen months afterwards, by the statute of December 30, 1788.

This ordinance not only abolished and for ever prohibits slavery in this territory, but impliedly asserts the right of Congress to abolish and prohibit slavery in all territory that might subsequently become the property of the Union, unless it were restrained by the express conditions of such subsequent acquisition. When this ordinance was enacted, the North-Western Territory was the only territorial property of the Union, and therefore the only domain to which Congress could extend these great principles. Kentucky and Vermont, admitted to the Union after the adoption of the Federal Constitution, the first on February 4, the second on March 4, 1791, had never been ceded to the Union as territories. Tennessee was not ceded by North Carolina till 1789, nor the Georgia Western Territory by South Carolina and Georgia, till 1797. Then as the North-Western Territory was all the ground which this ordinance could then cover, I feel justified in saying that it was designed to cover *the whole ground*, to establish a principle and a precedent for all future acquisitions of territory. This construction is fortified by the provision of the ordinance concerning fugitive slaves, which says that, "any person escaping into the same (territory), from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully claimed, and conveyed to the person claiming his or her labor or service as aforesaid." This provides for the surrender of fugitive slaves, *only* when claimed by the *original* States, the Old Thirteen. Hence if slaves should escape into this territory from any New State, they could not be claimed under this proviso; and if Kentucky or Tennessee had been admitted to the Union after the adoption of this ordinance, and slaves had escaped from either of them into this territory, they would have been emancipated. And the admission of both was anticipated in 1787. Kentucky separated from Virginia by their mutual agreement in 1785, after a discussion upon the question of separation for several years previous;

and thus was it an independent State for six years before its admission, and for two years before the adoption of this ordinance. In 1784, Tennessee separated from North Carolina without its permission, and assumed to be the State of Frankland. But it resumed its territorial position in 1788, and was ceded to the Union in 1789. Thus when this ordinance was adopted, was the admission of these two States anticipated; yet did Congress declare that slaves escaping into the North Western Territory from either of them, or from any part of the Union excepting the original Thirteen States, should not be reclaimed. And the delegates in Congress from all the slave States, in voting for this ordinance, assented to this limitation of the right of reclamation; and Virginia, of which Kentucky had then recently been a part, a colony, a child, also assented to it by the statute of December 30, 1788; and each of the Southern States afterwards ratified this ordinance by statutes, and thus assented to all its principles. Thus in reviewing the proceedings of the Federal Government concerning slavery, from the first meeting of the Continental Congress on September 5, 1774, to the adoption of this ordinance on July 13, 1787, we find an explicit condemnation of this institution, and a determination to prevent its extension, and also find each of the slave States, by ratifying these proceedings, fully sustaining these views.

I will now show that, in the convention which devised the present Federal Constitution, all the States, excepting two, were animated by the feelings, inspired by the principles, which, in connexion with slavery, characterized the Continental Congress. And I will here add that Vermont prohibited slavery by constitution in 1777, Massachusetts by constitution in 1780, New Hampshire by constitution in 1784, Pennsylvania by statute in 1780, and Rhode Island and Connecticut by statute in 1784.

In January, 1786, the Legislature of Virginia, upon motion of Mr. Madison, appointed delegates "to meet such delegates as the other States might appoint," to devise some uniform system of commercial laws. Delegates from five States only met at Annapolis in September, 1786, too much confined by instructions from their respective States, to effect the purpose of their assemblage. But they agreed upon a report to their respective States, representing the defects of their Federal system, and recommending another convention for its revision, to meet at Philadelphia on the second of May following. The convention which assembled upon this recommendation, was the ever-memorable body which devised the present Federal Constitution. It was composed of distinguished patriots and statesmen of the Revolution, who immediately gave a promise of the wisdom that would govern their deliberations, by electing WASHINGTON for their President. Among its members from Maryland, Virginia, the Carolinas, and Georgia, were McHenry, Madison, Speight, Rutledge, Pinckney, names anything but obscure in the history of our country, and one of which, at least, no American should pronounce without reverence. In Maryland, Virginia, and North Carolina, opposition to slavery was then extensive, especially among the enlightened, and was boldly proclaimed by men who had been conspicuous in their States Legislatures, who had signed the Declaration of Independence and the Constitution of 1778, and were then members of this convention. Among the distinguished men in these States then most earnest in opposing slavery, were Washing-

ton, Patrick Henry, Jefferson, Wythe, Pendleton, Lee, Mason, Randolph, Dawson, Innis, Tyler, Luther Martin, Iredell, Galloway.

Amid opposition to slavery thus exhibited in declarations and acts through thirteen years, opposition creditable alike to the statesmen, the moralists, and the patriots of the Revolution, did the Federal Convention assemble in 1787, to devise a new constitution for the Union. The Confederation of 1778 was more a league than a government; more an alliance of independent nations, than a fusion of States into one nation. This league had been tried and found wanting; and the very object of this new convention was an union more perfect, under the guarantee of a national government. Can we suppose that the people of the United States, in thus assembling in solemn convention, to establish a government both national and federal, to secure the very principles which they had proclaimed, and for which they had contended, throughout the Revolution, intended to confine their beneficent institutions to one race only of their fellow men? That, having proclaimed, in the very commencement of their quarrel with the British Empire, their entire dissent from and abhorrence of the doctrine, that, God ever designed a part of the human race to hold absolute property in and unbounded power over others; that, having charged as a crime against the parent country, the establishment of slavery among them against their earnest and continual remonstrances; that, having, during the whole contest, enacted various laws against the slave trade, and, after the contest, abolished the slavery then existing, and prohibited all future slavery, in the territory acquired by the whole Confederacy as the nursery of new States; that, having done all this, and being then engaged in the awfully responsible work of establishing a national and federal government for the security of their natural rights: they intended to exclude for ever, a certain portion of their fellow beings from all participation in its blessings? Can we suppose that, after having said and done all this, they intended to present for the approbation of the civilized world, the solemn mockery of a *free* constitution, founded upon chains that were to bind a portion of their fellow creatures in hopeless, everlasting bondage? To suppose that an assembly containing such men as John Langdon, Roger Sherman, Alexander Hamilton, William Patterson, Franklin, Mifflin, Clymer, Robert Morris, Dickenson, Madison, with WASHINGTON at their head, intended to come before their own generation, to stand before all posterity, uttering solemn and hypocritical professions, with a charter of human rights in one hand, and the fetters of unlimited, interminable bondage in the other, is an insult to their memory, to the common sense of mankind, and to the Eternal Justice which they invoked. No! They made no false pretences! They never intended "to keep the word of promise to the ear and break it to the hope." They spoke sincerely, truly, and intended to be understood as they spoke. And what did they say? Precisely what had been said substantially by the Continental Congress, from their first meeting on September 5, 1774, to their adoption of the celebrated ordinance against slavery on July 13, 1787, that, their grand object was to *establish justice, and secure the blessings of liberty to themselves and their posterity.* Their solemn declaration begins thus:—

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings

of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

What did the Convention mean by *justice?* They meant, in part, what had been signified by the declarations of distinguished men, by the declarations and acts of the Continental Congress, by the resolutions adopted in county conventions and State conventions, by the acts of State Legislatures, by the declarations and provisions of State constitutions, during the whole period between the first meeting of the Continental Congress, in 1774, and the meeting of this Federal Convention in 1787, already referred to, and all against slavery, that, slavery was *unjust*, and should neither extend further nor endure for ever.

And what did the Convention mean by *the blessings of liberty for themselves and their posterity?* Can we suppose that, after slavery had been denounced by the representatives of the whole confederacy, from the commencement to the termination of the Revolutionary struggle, and in the first laws enacted by Congress for the government of the territory first possessed by the Union, the Convention intended to confine "the blessings of liberty" to a portion only of the national population? Objectors may say that this Convention acted only for the American nation, while my doctrine would suppose them to act for all mankind. While admitting that, in mentioning the blessings of liberty, the Convention confined the application of the phrase to the United States, I urge that, they intended to apply it to all within the United States, without distinction. In providing for these blessings, while they could not go beyond the United States, excepting by offering an example, they could comprehend, for they had the requisite power, all within the United States, of whatever race, bond or free. I do not mean that they intended to make the Federal Constitution operate as an act of immediate or general abolition. They had no such power over slavery in the States. All that I mean, and which I distinctly assert, is that the Convention of 1787, in framing the Federal Constitution, *contemplated*, *expected* the gradual diminution and not remote final extinction of slavery, and *designed* to prevent its extension.

But if the Convention designed all this, why was not the principle of emancipation under the auspices of the Federal government, distinctly avowed in the Constitution? This question is easily answered. The people of the United States, in both their Federal and State assemblies, had already exonerated themselves from the guilt of establishing slavery, by charging the establishment to the real authors of the mischief, the British Government. They also knew that the evil, though of tremendous magnitude, could not be easily cured; that, while emancipation was an easy task in New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, it was not so in Maryland, Virginia, North Carolina. In these three Slave States, the poisonous roots of the evil were interwoven with those of the whole social constitution, and therefore could not be hastily torn up. And all knew that the States had not intended to surrender to any Federal Government, and therefore had not surrendered to the Convention of 1787, any control over their internal administration. Therefore the Convention could not provide, in the Constitution, for the abolition of slavery in the States, immediate, gradual, or prospective. But the Constitution *could* provide for the im-

mediate, unconditional abolition of the slave trade, foreign and domestic, between each State and any foreign State, and between each State and every other member of the confederacy. Then why did not the Convention exercise this ample power, and proclaim to the world the sincerity of their *professions* in favor of that *freedom* which they had already pronounced a natural, inalienable right, and of their *denunciations* against that *African Slavery* imposed, by the British Government, upon their Colonial helplessness? The answer to this question introduces a dark page in our history, and shows whence all the bitter waters of slavery have flowed since the establishment of the Federal Constitution. South Carolina and Georgia are responsible for the awful increase and present extent of this deplorable evil, and for all the burdens which it has imposed upon the country during the last sixty years. But for South Carolina and Georgia, not another slave State would have been added to the *Old Thirteen!* And Kentucky, Tennessee, Mississippi, Alabama, Florida, Louisiana, Missouri, and Arkansas, would now have been able to boast with Ohio, Indiana, Illinois, Michigan, and Wisconsin, that, the foot of no slave polluted their soil, that, it was trodden only by freemen, that, no chains rattled within those *free, sovereign, independent* States, entitled, in perfect equality with the original States, to the rights of freedom, sovereignty, and independence.

This is a grave charge against two members of the Revolutionary Confederacy who well performed their part in struggling for national independence. But it is not made without authority. As the Old Thirteen States, from the commencement of the Revolution, had exercised separately, or by a majority of two thirds in the Continental Congress, all power over commerce, their delegates in the Convention were unwilling to surrender this power to the Federal Government under a new constitution, excepting through a similar majority; and no States in the Convention so strenuously contended for this reservation, as South Carolina and Georgia. They saw that commerce involved—*the slave trade*; that, the surrender to a bare majority, of the power to regulate commerce, would enable a bare majority to prohibit the slave trade immediately; and they saw in the delegates from all the other States, and especially in those from Virginia, a cordial concurrence in such immediate prohibition. And they had resolved upon retaining this diabolical traffic, and would not consent to its prohibition at *any time*, upon *any terms!* Here then were the elements of discord. Eight States, including South Carolina and Georgia, among the twelve represented in the Convention, for Rhode Island sent no delegates, would not yield the regulation of commerce to a bare majority in Congress; ten States would not consent to a continuance of the slave trade; and South Carolina and Georgia, then called the *Southern* States in contradistinction from all the rest, would not assent to *any* abolition of this criminal traffic. During four months were these two subjects under discussion in the Convention; and during three of the four did eight States, including South Carolina and Georgia, vote to subject the Congressional power over commerce to a majority of two thirds. At length a compromise was effected, by the assent of the ten Northern States to a temporary toleration of the slave trade, and the assent of the two *Southern* States, which, in the language of those days, signified only South Carolina and Georgia, to a prohibition after such temporary toleration, and to the power of a majority in Congress over commerce.

In other words, for the privilege of the slave trade for twenty years, the two Southern States assented, though reluctantly, to the power of a bare majority in Congress to regulate commerce; and for this power over commerce, the ten Northern States yielded to the two Southern the privilege of the slave trade for twenty years. The two Southern States made this concession of the slave trade for twenty years, an indispensable condition of their continuance in the confederacy. Mr. Madison, a member of the Convention, is good authority on this subject; and while representing a slave State, he was, in common with Washington, Jefferson, Henry, Wythe, Lee, Pendleton, all the great lights of Virginia in those days of foresight, self-sacrifice, and mutual concession to common good, a stern condemner of slavery as a violation of natural rights, and a corruptor of morals and manners. In a speech in the memorable Convention of Virginia to which was referred the Federal Convention, he says, "The Southern States (an expression then applied exclusively to South Carolina and Georgia,) would not have entered into the Union of America, without the temporary permission of the slave trade. And if they were excluded from the Union, the consequence might be dreadful to them and to us. We are not in a worse situation than before. That traffic is prohibited by *our* laws (referring to the law of Virginia of 1786), and we may continue the prohibition. The gentlemen from South Carolina and Georgia argued in this manner; 'We have now liberty to import this species of property, and much of the property now possessed, has been purchased, or otherwise acquired, in contemplation of improving it by the assistance of imported slaves. What would be the consequence of hindering us from it? The slaves of Virginia would rise in value, and we should be obliged to go to your markets.' I need not expatiate (continues Mr. Madison) on this subject. Great as the evil is, a dismemberment of the Union would be worse. If these States should disunite from the other States, for not indulging them in the temporary continuance of this traffic, they might solicit and obtain aid from foreign powers."

Thus for the purpose of procuring *slaves cheap*, they refused to remain in the Union without the slave trade, and not only threatened, as they have more than once since, to establish a separate confederacy, but even intimated, as South Carolina did in her days of nullification, a design to unite with some foreign power. Would they have found any foreign power ready for such union? The British government, then smarting under the recent loss of their colonies, would have gladly improved any opportunity for sowing division among them, in the hope of reaping the harvest of reconquest. And this British Government, then and previously the great patron of the slave trade, which had furnished slaves to all the Spanish Colonies, and which had waged more than one war against Spain, to extort from her the privilege, and which had forced the abomination upon the American colonies in their helpless infancy, would have rejoiced in obtaining an *assiento contract** from South Carolina and Georgia. The just, the philanthropic, the sagacious Madison and his associates foresaw these direful evils; and hard as was the alternative between them and the guilt of the slave trade for even twenty years, they could not hesitate

* By the Treaty of Utrecht, in 1713, Spain granted to Britain the exclusive right to supply the Spanish Colonies with African slaves; the British agreeing to furnish 4800 annually. This stipulation between Spain and Britain was called the *assiento contract.*

in preferring the latter. A period to the abomination, though yet distant, was a great victory over the Southern States, which had insisted on retaining it without limitation; and seeing in all around them, excepting South Carolina and Georgia, a deep and settled hostility to this institution in the abstract, a stern resolution against its extension, and an earnest hope and belief in the speedy commencement, in the slave States, of the schemes for its extinction which had been already adopted in Vermont, Massachusetts, New Hampshire, Connecticut, Rhode Island, and Pennsylvania, they took for granted that when the twenty years of permission should expire, the whole Union would unanimously and joyfully apply the prohibition. And I must add as another justification, or rather palliation, of their assent to this temporary permission, that, excepting South Carolina and Georgia, every member of the confederacy had already prohibited the introduction of foreign slaves within its own territory. On one side they saw separation, foreign alliance, civil war, and all their accumulating horrors, involving the destruction of that free republic which they had established amid the toils, privations, sacrifices, sufferings, and blood of the Revolution. On the other they saw peace, mutual confidence, augmenting strength and prosperity, a free constitution, an example to the world, the hope of the oppressed in all climes, marred and stained and disfigured by a toleration of the abominable slave trade for twenty years, but still brightened and cheered by the prospect of its extinction at the end of that period, and the probable commencement of some schemes of emancipation. These were the best terms for human rights which South Carolina and Georgia would grant; and the other States preferred them, though far short of their philanthropic yearning, to the horrors of the alternative. They got all for freedom within their reach; and on South Carolina and Georgia must fall the censure due to their getting no more! And let us remember that the Continental Congress and the Federal Convention were in session in Philadelphia at the same time, and that the celebrated ordinance of July 13, 1787, abolishing and for ever prohibiting slavery in the Northwestern Territory, was unanimously adopted by the Continental Congress, in the very midst of the long debate in the Convention upon the question of slavery. Hence we must infer that the members of each body, comprehending the most distinguished men of the country, very freely interchanged their views upon this vitally important question. If then, even the members of Congress from South Carolina and Georgia voted for this ordinance, while the members of the Convention from the same States contended for the privilege of the slave trade to the existing States, we must infer that no person, in either body, then doubted the determination of the whole country to prevent the extension of slavery, or doubted the full power of the Union under the then existing Constitution of 1778, or the expediency of arming the Union with full power under the constitution then in progress, over slavery beyond the limits of each State then existing. And what was done with this celebrated ordinance, after the adoption of the present constitution? Was it repealed as the exercise of a power in the Federal Government which that constitution did not concede? At the first session of the first Congress under the new constitution, this ordinance was ratified by a special act, which received the vote of every member of the House and Senate, with a single exception from New York, and the signature of President Washington, then fresh from the Convention which had spent four months in adjusting the question of slavery.

CHAPTER II.

HAVING traced the history of slavery, from the commencement of the Revolution to the clause of the Federal Constitution concerning the slave trade, I will now consider the signification which the Convention of 1787 attached to this clause. Its terms are the following:

"The migration or importation of such persons as any of the States now existing may think proper to admit, shall not be prohibited by the Congress, prior to the year one thousand eight hundred and eight; but a tax may be imposed on such importation, not exceeding ten dollars for each person." Art. i., Sec. ix.

This means, first, that, migration and importation, thus used disjunctively, refer to two things, the domestic and foreign slave trade.

Secondly, that, the States then existing, which were the Old Thirteen, should not be restrained in this migration or importation, excepting by a limited tax on the importation, till the year 1808.

Thirdly, that, the States which might be established before 1808, might be immediately restrained from such traffic.

Fourthly, that, after 1808, such traffic could be prohibited to all the States, new or old.

I. I say that *migration* refers exclusively to the domestic, and *importation* exclusively to the foreign slave trade.

According to a rule of construction recognised in the tribunals of all civilized nations, and so recognised because it is founded in common sense, the terms of a written instrument must be construed according to their ordinary acceptation by the community in which the instrument is to operate; and every term used must be carried into effect in such sense, as indicating the maker's design, and not regarded as used carelessly, with no or an erroneous meaning. Were *migration* and *importation* used, in this clause of the Constitution, synonymously? As words of precisely the same import? To signify one and the same intention in the makers of the instrument? They never have been so used, either in common parlance, or by acknowledged authorities in philology; and hence such construction is forbidden by custom and etymology. The Convention were very precise in the use of terms, and did not intend to express any idea by more than one, when one was regarded as ample. They were among the scholars, the lettered men of their day, under a sense of deep responsibility, engaged in a work whose magnitude could not be estimated too highly, and in which the precision of language excluding variety of construction was deeply important. They were the delegates of twelve different States, each apprehensive of conceding too much of State sovereignty to a Federal Government. Hence these delegates knew that when their work should be presented to the different States, it would meet with opposition in some, perhaps in all, and upon almost every imaginable ground. The restraints imposed by the States upon the delegates who had assembled at Annapolis a few months before, and who were now in this very Convention, had taught them to believe that one of the most formidable objections to any plan of Federal Government, would be the ambiguity of its terms, and consequently its power, through construction, over the rights which the States never intended to concede. The Federal Constitution then in operation, though adopted by Congress on July 9, 1778, had not been

ratified by all the States till March 1. 1781; Maryland, the last of the Thirteen that yielded, having ratified it on that day. Then can we suppose that such men, acting under such impressions, would leave to the ambiguities, the uncertainties of repetition and tautology, those rights, State or Federal, whose security essentially depended on precision of language? We *must* suppose that they not only knew precisely what they intended to say, but thoroughly understood the best mode of saying it. And for this rational, almost necessary inference, I would state that the Federal Constitution, after being thoroughly analysed and digested in substance, was referred to a special committee, for the purpose of being freed from all superfluous words, of being clothed in phraseology the most definite and precise, the best fitted to exclude all uncertainties of construction. And we must take for granted that the members of this committee were selected with especial reference to their qualifications for such task, and therefore that, they were among the most gifted for it in the Convention. And we may also take for granted that they were *well* qualified for such task; for we may vainly search all the records of English literature, political, legal, ecclesiastical, military, miscellaneous, even mathematical, for a document superior, in precision of language, to the Federal Constitution.

Then in what significations were these terms used? Some have urged that the terms *migration, importation, persons,* were applied by the convention to the voluntary immigration of foreigners to the United States, and not to the importation of slaves from abroad, or their transfer from one State or Territory of the Union to another. But the long continued debates in the Federal Convention, and those in the State Conventions to which the constitution was referred, leave no doubt upon this subject. In the Federalist, Mr. Madison refers to this objection in the following terms:—"Attempts have been made to pervert this clause into an objection against the constitution, by representing it, on one side, as a criminal toleration of an illicit practice; and on another, as calculated to prevent voluntary and beneficial emigrations from Europe to America. I mention these misconstructions, not with a view to give them an answer, for they deserve none, but as specimens of the manner and spirit in which some have thought fit to conduct their opposition to the proposed Government." This construction supposes that *migration* and *importation* were used by the Convention synonymously, and were jointly applied to the voluntary passage of free white persons to the United States, either across the ocean, or by land, from the contiguous Spanish and British colonies. This brings us to the appropriate, specific, technical, signification of each of these terms. Migration signifies *to leave, to quit, to depart from,* one region or country for another; and in common parlance, history, and legal documents, it is used to signify a departure from one country for another by land; though I admit that *emigration* and *immigration* are now used to signify a change of domicile by land or water. *Importation* signifies *to bring into;* and in common parlance, history, and legal documents, it is used to signify bringing into one country from another by water, though between contiguous countries, importation may be by land. We cannot suppose that the Convention, understanding the meaning of words, and using them in both their technical and popular signification, applied the term *importation* to free white immigrants from Europe. Are such persons *imported?* Are they considered, treated, and mentioned by the merchants in whose ships they make the voyage, as

bales, barrels, and boxes of merchandise? Every merchant knows that, as *import* and its derivatives are technical in commerce, their application to free persons voluntarily travelling, would be a gross misapplication of technical language. Then if *importation* cannot refer to free white immigrants, *importation* and *migration* were not used by the Convention synonymously, but were intended to signify different things.

To what then was the term *importation* applied? To the foreign slave trade; to the forcible importation of colored slaves from abroad. Could it be applied to Africans, brought into the country by water as property, like cattle? No merchant, in importing cloths or cattle, would say that his bales or his beasts had *migrated*. In bringing slaves into the country in ships, he would describe them as *imported*, well knowing that in the counting house, to which we must refer for the popular or technical signification of terms current in commerce, by no other word could he so plainly and precisely describe his act of bringing them in. In that Convention were Robert Morris, George Clymer, and Nicholas Gilman, men bred in the counting-house; the first of whom, through the financial sagacity acquired in an occupation which makes no slight demands upon talent, was a main pillar of the Revolution. Would such men, liberally endowed by nature and thus carefully trained, in a clause of the Constitution directly relating to commerce, misapply terms technical in their own profession? If then, the Convention intended to cover the slave trade with Africa by a single term, and we have already proved that they would not use more than one term, where one was ample to express their meaning, the term *importation* covered the whole ground.

I will now consider the signification of the term *migration*, as used in the same sentence with *importation*. According to the definitions already given, were slaves, forcibly carried across the ocean to any market, ever described as emigrants or immigrants? Never! Hence, after having applied to such forcible transportation, a term of precise and definite signification, would the Convention attempt to express the same idea by another term, of signification less precise, or not currently used in such connexion? The considerations already urged concerning their technical, verbal, philological precision in that instrument, entirely exclude such supposition. They must have referred to something else than the foreign slave trade; and nothing else is left for their reference, but the domestic slave trade, then conducted among the States by land. *Migration* was not applied to a foreign slave trade by land, through the contiguous Spanish and British colonies; for no such trade ever had existed, or was then expected. The Spaniards did not conduct the slave trade for their own colonies, but relied upon the English, the monopolists of such trade by treaty. And as the slave trade was then permitted by South Carolina and Georgia, it would be conducted through Charleston and Savannah, ports near the plantations offering the demand, and not through New Orleans and Pensacola, across a wilderness inhabited by Indians, or through Halifax and Quebec, over Canada, the Northern and Middle, and a portion of the Southern States. Mercantile sagacity never seeks a circuitous, dangerous, or expensive route, when a direct, safe, and cheap one is accessible. Nor was *migration* applied to free white settlers from Europe. This construction supposes that the Convention referred to African slaves and European immigrants in the same con-

nexion; to the forcible *importation* of one, and the voluntary *immigration* of the other, in the same sentence, with reference to the same prospective prohibition. According to a rule of construction founded in the common practice, and therefore the common sense of mankind, when terms are used in the same sentence disjunctively, while they are to be construed as referring to different things, they are also to be construed as referring to different things analogous, of the same class, rather than to things both generally and specifically different. Thus, if *migration* and *importation* be used disjunctively in the same sentence, and either be applied to any kind of slave trade, the other must be applied to some other and different kind of slave trade, rather than to anything different from all slave trades. Did the Convention intend to include in the same sentence of a constitutional provision, African slaves and European settlers? Or to impose any prospective prohibition upon the immigration of the latter? Did Franklin, the grandson of an Englishman, Clymer, the son of an Englishman, Robert Morris, an Englishman by birth, and delegates from a State abounding in German population, intend to classify together the colored slave and the free white settler from their fatherland? Or with the children of that Germany whose every inch of territory is historically stamped with literature and science, with romance, and chivalry, and song, with struggles unto death for freedom of thought, and speech, and action? Having reared a temple to Freedom amid toil, privation, and blood, aye! the blood of France, and Spain, and Holland, and Germany, and Poland, did they intend to close its doors against the compatriots of Lee, and Gates, and Sterling, and De Kalb, and Steuben, and Pulaski, and Kosciusko, and Lafayette? Theirs was no Chinese policy of isolation from the rest of the world. Knowing that the United States had originated in European immigration, and would continue to grow and prosper under the same process, they never dreamed of thus closing the doors of their freedom and prosperity. Then if *importation* could not refer to free immigrants from Europe, or to slaves transferred from one State of the Union to another, *importation* and *migration* were not used synonymously. And if African slaves and European immigrants were not alluded to in the same connexion, *migration* was not applied to European immigrants.

But if these terms refer to any other persons than slaves, the Federal Government is armed with powers which the Old Thirteen States never thought of conceding. The clause allows "the importation or migration of such persons as the States now existing may choose to admit," subject to a tax not exceeding ten dollars for each person, till 1808, and authorizes Congress to prohibit such importation or migration afterwards. The State right thus temporarily retained by the Old Thirteen, thus subsequently surrendered for all the States, is the right of each number of the Old Thirteen to admit within its limits, any persons at its discretion. If this clause refers to any other persons than slaves, it authorizes Congress, after 1808, to prohibit any foreigner from entering any part of the Union, or crossing its Northern or Southern frontier, or travelling from one State or Territory to another; and to prohibit the citizens of each State or Territory from travelling to another. Did the Old States, careful to reserve most of their sovereignty, and providing for the admission of New States on equal terms with the Old, intend to arm Congress with the power of prescribing who might become their inhabitants? Of inspecting their

population, and removing all who had entered without Federal permission? To subject themselves to fines, and other penalties, imposed by Congress, for inviting foreigners to their lands, their workshops, their schools, their counting houses, and their ships? Such despotism over personal rights in the States would never have been tolerated by the men of the Revolution. Yet such despotism might have been exercised by Congress at any time since 1808, and may be exercised now, if these terms, *migration* and *importation*, refer to foreigners voluntarily entering a State by land or water, from a contiguous State, or from a foreign State or Colony.

The Constitution, in Clause I. of Section II. of Art. IV., says that, "The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." The term *citizen*, in this clause, refers solely to the rights of person and property; for if it covered political rights, all elections in each State might be controlled by any or all of the other States, and all State sovereignty would be annihilated. But if the term be confined to personal and proprietory rights, then any person not a slave is entitled to such rights in any State which he may enter, in common with its own citizens; and hence the clause concerning importation and migration conflicts with this clause concerning citizenship, or does not refer to European immigrants. The first of these clauses restrains Congress from prohibiting till 1808, "the migration or importation of such persons as the States now existing think proper to admit." The Free States do not "think proper" to admit slaves, but do "think proper" to admit free persons from abroad or from other States. If this clause refers to European immigrants, Congress can now restrain these States from admitting them, either from foreign countries, or other States of the Union. I need not say how this doctrine would be received by any State, offering the shield of its constitution and laws to all citizens of the other States, and especially by the new States, offering their fertile lands to settlers from the whole Union and all Europe.

This clause concerning migration and importation refers only to the Old Thirteen, as they were the only *existing* States at the adoption of the Constitution. If this clause relates to free white immigrants, then Congress might have prohibited their entrance into the territories or new States immediately, and into the Old Thirteen after 1808. If the Convention intended to arm Congress with power to prevent the settlement of new States, then all constitutional provisions for the government of territories, and all provisions of the Continental Congress for the government of the North Western Territory, were nugatory. But perhaps the Convention intended to confine the prohibition after 1808 to the old States, and to leave the new without any such restraint. This construction involves two absurdities. If the clause were designed to cover slavery, then the Convention intended to invest the new States with unlimited power over that institution. But as the Continental Congress and the Federal Convention were sitting in Philadelphia simultaneously, and the former were carefully excluding slavery from that nursery of new States, the North-western Territory, I can hardly suppose that the latter would constitutionally invest them with exclusive privileges over the subject. The old States never intended to invest the new with sovereignty which they relinquished for themselves. At *most*, they intended to admit new States on equal terms with themselves, and not with especial immunities.

This clause authorizes Congress to impose a tax upon the persons *imported*. The manifest object of this, was the discouragement of such importation till the time arrived for imposing the prohibition. With the vast and fertile North-western Territory before them, for which the Continental Congress were then legislating, could the Convention have designed to close it against Europeans by taxes upon immigration? But the advocates of slavery, to exempt the domestic slave trade from the operation of this term *migration*, change their ground, and admit that the Convention, while intending to raise no obstacles against free white immigration, did intend to discourage the foreign slave trade, so far as it could be discouraged by this limited tax. They are very ingenious and very versatile! In considering the last objection, we found them, in attempting to exempt slavery from this term *migration*, applying it to free white immigrants. And now, to exempt slavery from the same operation, they would remove all obstacles to such immigration. We cannot permit them, either to connect slaves and free immigrants in the same sentence, or to change the meaning of constitutional terms according to their convenience. If the Convention wished to leave the doors of the Union open to free white immigrants, while they would discourage, by taxation, the importation of slaves, why should they allude at all to free white immigration? Silence would be the surest mode of keeping such doors open, especially when they had provided, in the same Constitution, for the adoption, the naturalization, the impatriation of those who came. But if both *migration* and *importation* refer to the slave trade, domestic and foreign, why should the power of taxation be applied to the foreign only? The Constitution, in Clause II. of Sect. X. of Art. I., says that, "No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws." An important object of this provision was the prevention of the States from annoying each other with conflicting legislation, with those municipal restraints upon internal commerce and intercourse which had never prevailed in the United States, even when colonies, and which had long been sources of social evil to Spain, Italy, Germany, and other European nations. While studious to leave in full sovereign force, all State rights consistent with a national government, the Convention wished to promote that assimilation and fusion of the States into one people, which would be the strongest bond of their political union; and hence the Convention not only interdicted all conflicting State legislation upon commercial intercourse among the States, but also provided for equality of citizenship in the several States. Then in prohibiting the States from imposing duties on imports or exports, while granting to each of the old States till 1808, the privilege of the slave trade, domestic and foreign, the Convention precluded them, while the privilege endured, from imposing duties upon either branch of this trade. But in authorizing Federal taxation upon the slave trade, while it was permitted to the old States till 1808, why should the Convention confine this authority to the foreign branch of it? Having carefully restrained the States from conflicting legislation, the Convention were quite too wise to invest this power of annoyance in the Federal Government. The power of raising barriers to social and commercial intercourse among the States, would be quite as injurious when exercised upon the whole of them by the Federal Government, as when exercised by them against each other; and hence the

Convention carefully denied to the Federal Government a power too dangerous, too essentially evil, even to be left with the States. In no part of the constitution is the Federal Government authorized to impose taxes or other burdens upon commerce, or any other intercourse among the States. Then as the States were interdicted from imposing a tax upon the domestic slave trade, the Federal Government, by this confinement of the tax upon slaves to those imported, were restrained from the same power; and hence this Congressional power of taxing the slave trade is granted only in connexion with *importation*, or the foreign, and not with *migration*, or the domestic slave trade.

Nothing then is left for the operation of this term *migration*, excepting the migration of slaves from one State of the Union to another; from the *Northern*, then including Maryland, Virginia, and North Carolina, to the *Southern*, signifying South Carolina and Georgia. This process was then in operation ; and Mr. Madison says that the apprehension of its being the only source of supply to the Southern States, suggested *their* opposition to any restraint upon the foreign African slave trade. Nor must we forget the motives of the Convention in arming the Federal Government with prohibitory power over the slave trade. The deep and solemn conviction then pervading all the States, excepting South Carolina and Georgia, in the heinous character of the traffic, was equally applicable to the *importation* of slaves from abroad, and their *migration* from one State to another ; and hence they were equally intent on abolishing both, and carefully covered each by a term of precise, definite, exclusive signification.

Having settled the constitutional signification of *migration* and *importation*, I will consider the power over the slave trade with which the Constitution armed the Federal Government. The Constitution allows to the Old Thirteen States only, for twenty years, ending in 1808, the privilege of importing slaves from abroad, and of transferring slaves from one to the rest of these Thirteen, and arms Congress with the power of suppressing, in 1808 or afterwards, all slave trade, foreign and domestic, by and among these States. By the same clause, Congress is authorized to forbid immediately, all slave trade in any other part of the Union excepting the Old Thirteen States. Congress exercised the first of these powers in 1808, in forbidding all foreign slave trade. It might have exercised the second of these powers in 1808 or subsequently, in forbidding all domestic slave trade among the Old Thirteen States. It might have exercised the third of these powers immediately upon the adoption of the Constitution by the States, in prohibiting all slave trade in all territories and new States. And it might prohibit all domestic slave trade now. Hence had the ordinance of 1787 never been enacted by the Continental Congress, or ratified by the ceding States, this clause of the Constitution could have been used to prevent the transportation of slaves to the Northwestern Territory, by the first Congress in 1789. The same spirit which produced that ordinance, extorted from South Carolina and Georgia a reluctant assent to this constitutional provision. The clause says that "the migration or importation of such persons as any of the States now existing may think proper to admit, shall not be prohibited by Congress prior to the year one thousand eight hundred and eight." The necessary inference is that, such *migration* and *importation* may be prohibited in 1808 or afterwards, and without this restraint till 1808, might be prohibited immediately ; for according to well-established rules of construction, a tem-

porary prohibition implies not only the power to act at the end of the prohibition, but the power to act immediately if such prohibition were not interposed. Congress entertained no doubt of this, having interdicted the foreign slave trade in 1808, so soon as the prohibition expired. And if Congress have this full power over the foreign slave trade, have they not the same over the domestic? Both are mentioned in the same sentence, the domestic as *migration*, the foreign as *importation*; and the toleration till 1808 equally covers both, and consequently leaves both to Congress after its expiration.

This construction is sustained by the declarations of eminent jurists, expressed in the conventions of the slave States to which was submitted the Federal Constitution; opinions showing that the Convention of 1787, by this clause, intended the eventual suppression of all slave trade after 1808. In the convention of Virginia, opposition being made to this clause, because it might eventually encourage emancipation, Governor Randolph said, "I hope that there is no one here, who, considering the subject in the calm light of philosophy, will advance an objection dishonorable to Virginia; that at the moment they are securing the rights of their citizens, an objection will not be started that there is a spark of hope, that these unfortunate men now held in bondage, may, by the operation of the general government, be made free." Indeed! So according to Governor Randolph, this clause of the constitution afforded a spark of hope in the ultimate freedom of the slaves through the operation of the Federal Government! And any objection to this clause on that account, would be dishonorable to Virginia! And he not only approved the clause, but expressed his hope that the power which it eventually granted would induce schemes of gradual and general emancipation by the States!

Mr. Tyler, father of the late President, in the same Convention, earnestly opposed this toleration of the slave trade till 1808. He would prohibit it immediately, saying, "My earnest desire is, that it may be handed down to posterity that I oppose this wicked clause."

Mr. Johnson, in the same Convention, said, "The principle of emancipation has begun since the Revolution. Let us do what we will, it will come round."

Mr. Mason, who drew the Constitution of Virginia, and was afterwards its Governor, Mr. Innis, then Attorney General of that State, and Mr. Dawson, all in the same Convention, expressed the same opinions, looking forward to the eventual and not very remote abolition of slavery. And in these opinions they were sustained by Washington, Jefferson, Patrick Henry, Grayson, Tucker, Wythe, Lee, Pendleton, Blair, Page, Parker, Madison, stars of the first magnitude in the glorious constellation which *then* shone upon the "Ancient Dominion."

Luther Martin, a *host* in jurisprudence, a delegate from Maryland in the Federal Convention of 1787, said in the Convention of that State upon the Federal Constitution, "We ought to authorize the General Government to make such regulations as shall be thought most advantageous for the gradual abolition of slavery, and the emancipation of slaves which are already in the States."

In the Convention of South Carolina upon the same Constitution, Mr. Iredell, afterwards a judge of the Federal Supreme Court, in speaking of this clause, said, "When the entire abolition of slavery takes place, it will be an event which must be pleasing to every generous mind, and every friend of human nature."

Mr. Galloway, in the same Convention, said, "I wish to see this

abominable trade put an end to. I apprehend the clause means to bring forward manumission."

In the Convention of Pennsylvania, Judge Wilson, who had been a member of the Federal Convention, said, "I consider this clause as laying the foundation for banishing slavery out of this country. It will produce the same kind of gradual change as was produced in Pennsylvania. The new States which are to be formed will be under the control of Congress in this particular, and slaves will never be introduced among them. It presents us with the pleasing prospect that the rights of mankind will be acknowledged and established throughout the Union. Yet the lapse of a few years, and Congress will have power to extirpate slavery from our borders."

In the Convention of Massachusetts, General Heath said, "Slavery is confined to the States now existing. It cannot be extended. By their ordinance Congress has declared that the new States shall be republican States, and have no slavery."

In the same Convention, Judge Daws said, "Although slavery is not smitten by an apoplexy, yet it has received a mortal wound, and will die of consumption."

These declarations, which I could multiply ten fold, show that the ten States which opposed during four months in the Federal Convention, even a temporary toleration of the slave trade, and finally yielded it to the threats of South Carolina and Georgia about secession and foreign alliance, would have never yielded it, had they supposed that slavery was to be perpetual, or extended to new States. They yielded to the demand of South Carolina and Georgia, because they saw that Congress, after that demand was satisfied, would be able to prohibit all slave trade, confine slavery within its then existing limits, and leave it to perish there by its own vices.

This construction of the Constitution against all slave trade, foreign and domestic, is sustained by the legislation of Congress before 1808. By the act of March 22, 1794, all citizens of the United States, and all foreigners residing within any of them, are prohibited from prosecuting the slave trade with any foreign country. Why should Congress do this, while the Constitution still allowed the foreign and domestic slave trade in the United States? The answer is found in the deep reprobation of slavery then pervading the Northern and Middle States, and the most enlightened population of Maryland, Virginia, and North Carolina. The Congress of 1794 was chiefly composed of, and elected by, that Revolutionary generation which had borne its testimony against slavery from the commencement of 1774, and which was only restrained from denouncing it in the Federal Convention, by the awful alternative presented by South Carolina and Georgia. This Revolutionary generation, speaking through the Congress of 1794, and thus restrained till 1808, exercised their prohibitory over what remained, and prohibited all citizens of the United States, and foreigners residing in any of them, from prosecuting the slave trade with foreign countries. But this generation went further, and by the act of February 28, 1803, prohibited American vessels with slaves on board from foreign countries, from entering the ports of those States which had forbidden slavery, thus exerting the power of the Federal Government in aid of State laws against slavery.

Still more decisive is the act of March 26, 1804, for the government of the Louisiana and Orleans Territories, which forbids the importation

of slaves into either of them, from any place without the United States, or of slaves imported into the United States after May 1, 1798, or which might be imported after March 26, 1804. The same act forbids the importation of slaves into either of such territories, excepting by citizens of the United States, entering either of them for actual settlement, and the owners of such slaves at the time of entry. And the act declares *free*, any slave imported into either of these territories against any provision of such act. What induced this legislation? As slavery then existed in a small portion of those vast and fertile territories, Congress foresaw that they would stimulate an extensive slave trade, foreign and domestic. Congress could immediately prohibit the foreign slave trade to the ports of Louisiana. But as they could not, till 1808, prohibit it to the ports of the Old Thirteen States, they foresaw that, if the ports of Louisiana were closed against it, an extensive foreign slave trade would be carried to these territories through the ports of the Old Thirteen, till the time for restraining the latter should arrive, or during the interval between 1804 and 1808. Hence Congress closed Louisiana against all foreign slave trade, both through its own ports, and through those of all the rest of the Union, including the Old Thirteen. Congress also foresaw that Louisiana would be open to an active domestic slave trade, not only from all the Northern and Middle States where slavery yet lingered, but from all the States, Old or New, South of Mason's and Dixon's Line. And as Congress could not prohibit the domestic slave trade in the Old Thirteen till 1808, but could prohibit it immediately in all other parts of the Union, they exercised this power over Louisiana, and immediately closed it against all domestic slave trade. And what was the inducement to these prohibitions? Mr. Jefferson, then President, and a majority then in Congress, while unwilling to disturb the relations of property then existing in Louisiana, were resolved against leaving it as a nursery of Slave States.

Whence did Congress derive the power to prohibit, in 1804, all slave trade to Louisiana? It is not granted expressly; and according to the strict constructionists, it is excluded by Amendment IX., saying that, "The enumeration, in the Constitution, of certain rights, shall not be construed to deny or disparage others, retained by the people;" and by Amendment X., saying that, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and the power over the slave trade granted in clause 1, of sect. IX, of Art. I., was restrained towards the Old Thirteen till 1808. Congress derived this power from this very clause of sect. IX. of Art. I., which says that, while Congress shall not prohibit any slave trade to the Old Thirteen till 1808, it may prohibit all slave trade to all the rest of the Union immediately, and to the Old Thirteen after 1808. This act of 1804 was the work of a Congress from which the Revolutionary generation had not yet departed! A Congress aided from the Executive branch, by Jefferson in the Presidency and Madison in the State Department! A Congress whose laws were enacted during the judicial administration of Marshall and Bushrod Washington! Here was a Federal Government illuminated, in all branches, by the great lights of Virginia! Was the constitutionality of this legislation ever doubted? Did any strict constructionist or monomaniac abstractionist rise up in those days, in South Carolina or elsewhere, and proclaim to Jefferson and Madison and Marshall and Bushrod Washington, the men of the

Revolution, of the Continental Congress, of the Federal Convention, of Washington's Administration, that the toleration of the slave trade till 1808 extended beyond the Old Thirteen? That, the prohibition of the slave trade after 1808 did not include the domestic as well as the foreign? That Congress could not immediately prohibit all slave trade to all parts of the Union, excepting the Old Thirteen? No! Nobody *then* doubted the power of Congress to legislate against slavery in the Territories, or doubted the derivation of this power from clause I. of sect. IX. of Art. I. And what does such legislation prove for the power of Congress over slavery in any part of the Union? It proves that this clause was designed to cover the domestic, as well as the foreign slave trade; that, as the temporary toleration of both, as a State right of the Old Thirteen, expired in 1808, Congress might then have prohibited the domestic slave trade, as it did the foreign; and that, it might prohibit the domestic slave trade *now*, not only from each of the States to the rest, but from the States to the Territories.

This construction is sustained by legislation under the ordinance of 1787, and the absence of all judicial opposition to such legislation. I have already stated that the ordinance of 1787 was adopted in 1789, by the first Congress under the Federal Constitution; and that the slaveholders of the Northwestern Territory, immediately and unconditionally deprived, by that ordinance, of their property in slaves, presented a petition to the first Congress for its repeal, which was rejected. Why did they not seek the Judiciary, and in a suit for their property, test the constitutionality of this ordinance, or of its adoption by the Congress of 1789? That age abounded in eminent lawyers; strict construction, objections against constructive powers, defences of State rights, were then no novelties in any of the States, and jealousies about Southern rights in slavery no novelty in South Carolina and Georgia.

This construction is sustained by the act of Congress of May 7, 1800, establishing a Territorial government in Indiana; and by the act of January 11, 1805, establishing a Territorial government in Michigan; and by the act of February 3, 1809, establishing a Territorial government in Illinois; and by the act of April 20, 1836, establishing a Territorial government in Wisconsin. In each of these acts, Congress extended over the Territory the ordinances of 1787. So by the act of March 30, 1822, establishing a Territorial government in Florida, Congress extended over it every act on the Statute book against the slave trade, foreign and domestic, including those of March 22, 1794, May 10, 1800, March 2, 1807, April 20, 1818, and March 3, 1819. So by the act of April 30, 1802, for the admission of Ohio to the Union, and by the act of April 19, 1816, for the admission of Indiana, and by the act of April 18, 1818, for the admission of Illinois, Congress declared that their Constitutions "must not be repugnant to the ordinance of 1787, between the original States and the people and States of the Northwestern Territory." By each of these three acts, Congress interdicted slavery in new *States*, as a condition precedent to their admission, declared that new States came into the Confederacy by *Congressional compact*, and not *constitutional right*, and that slavery in a new State was a *Congressional concession* and not a *right of sovereignty*.

Not only are some of these acts founded upon the ordinance of 1787, but all of them have a constitutional foundation in clause i. of sect. ix. of art. i. This clause covers both the foreign and domestic slave trade, or it covers neither. Hence if Congress could prohibit both in Louisiana, as they did in 1804, they might have prohibited both in Florida,

as they did the foreign in 1822. The power of Congress over the foreign slave trade is not granted expressly, the terms slave and slave trade not being contained in the Constitution. It can be founded only upon construction of Clause I. of Sect. IX. of Art. I.; and if that clause allowed the slave trade to the Old Thirteen till 1808, and authorized Congress to prohibit it afterwards, it authorized Congress to prohibit it to all the rest of the Union immediately. And if it denied to the Old Thirteen all right in the foreign slave trade after 1808, and to all the rest of the Union immediately, so did it deny to each all right in the domestic slave trade. If, then, laws against the domestic slave trade are unconstitutional, so are laws against the foreign slave trade. Constitutionality or unconstitutionality must cover both alike. Will anybody, even in South Carolina, *now* contend for the legality of the foreign slave trade, and pronounce all the acts of Congress against it unconstitutional? He would find opponents of this doctrine, at least in the slave breeding States. An argument that proves too much cannot be sound; and as the argument against Congressional power over the domestic slave trade, whether in the States or the Territories, places the foreign slave trade beyond such power, and establishes that abomination as a *sovereign* or a *constitutional right*, secure against anything but a constitutional amendment, I must, to avoid this enormous consequence, contend for full Congressional power, since 1808, over all slave trades between all parts of the Union. If the domestic slave trade between States, or between States and Territories, can stand under the Constitution, so can the foreign. If one must fall as a sovereign or constitutional right, so must the other.

Having analysed and explained the intentions of our Revolutionary Fathers concerning slavery, and the powers which they vested in the Federal Government over all slave trade, I will proceed to examine some other relations between slavery and the Federal Constitution.

We have long heard and read much about the "compromises of the Constitution," proclaimed in the South, and echoed in the North, Middle, and West; and many, even the majority, have been led to believe that, under these "compromises," all the demands of the South for slavery were constitutional. Among these demands are that, whenever a free State is admitted to the Union, a slave State shall be admitted to balance it; and that, new States have a right to admission without any conditions imposed by the Federal Government, excepting a republican constitution; and that, the citizen has no right of petition to Congress upon the subject of slavery; and that, the Federal Government is bound to interfere with foreign governments for the surrender of fugitive slaves; and that, the citizen has a paramount constitutional right to establish slavery in new territories. If these be compromises of the Constitution, that instrument is widely and sadly different from the intentions of ten, at least, of the twelve States represented in the Federal Convention of 1787. If these be compromises of the Constitution, that instrument is widely short of the equality among the States, which the Convention intended to establish as the foundation of the Federal Compact; woeful indeed, is the condition of the Free States, and hopeless is the character of the Nation. The Free States must be content with their present limits and future vassalage, while slavery marches, with sure and giant strides, to the Pacific Ocean and the Isthmus of Panama; and the Nation must be content with the enduring odium of deliberately perpetuating and extending an institution, which, whether viewed in "the calm light of philosophy," or the light more brilliant because coming more directly from heaven, of Christianity, must be regarded as a

gross and criminal violation of natural rights. But a careful examination will show that no such compromises have been made; that, all these demands are groundless assumptions. The only expressed compromises of the Constitution upon the subject of slavery, are four. These are, the toleration of the slave trade, domestic and foreign, till 1808, granted to the Old Thirteen only, and the expiration of which leaves Congress with plenary power over all slave trades; slave representation in Congress; slave enumeration in apportioning direct taxes among the States; and the surrender of fugitive slaves. And the only implied compromise upon the subject, is the power of the Federal Government to call out the militia of the States, to suppress insurrections. If anybody can discover any more, let him, to use the memorable words of Patrick Henry when accused of treason, *make the most of them*. Do these compromises restrain Congress from prohibiting the domestic slave trade? From excluding slavery from the Territories? Or from new States? No! Notwithstanding all these compromises, Congress have plenary power over all slave trades; over slavery in all the Territories, in possession or reversion; and so far as slavery is involved, over the constitution of every State applying for admission to the Union.

To sustain these demands, the slave States quote the amendments of the Constitution, IX. and X.; the first saying, "The enumeration, in the Constitution, of certain rights, shall not be construed to deny or disparage others, retained by the people;" the second saying, "The powers not delegated to the United States, by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." In the first of these amendments, the terms "enumeration" and "certain rights," apply to the rights retained by the States or the people, and not to those vested in the Federal Government. The Constitution, a compact of the States with each other, of the people among themselves, to establish a common government for certain purposes, is merely a concession or grant of governmental powers from the great reservoirs of State and popular sovereignty. All the rights, all the sovereignty, not conceded to this grantee, this common government for certain purposes, of course are retained by the grantors, the States, or the people. A deed of enumerated lands does not cover the remaining lands of the grantor, or require him, for the preservation of his title, to enumerate or describe them. Hence the Constitution can enumerate only governmental powers, and not State or popular rights. The second of these amendments merely repeats the sense of the first in different terms; for as the first says that the enumeration of State or popular rights does not reach the remaining rights of the States or the people, so the second says that the powers *not* delegated to, *not* enumerated in, the Federal Government, or prohibited to the States, are still retained by the States or the people. The Constitution cannot specify everything retained, but was intended to specify everything granted. It enumerates *rights* vested in the Federal Government, and to remove all doubt about their extent, enumerates other *rights* vested in the States or the people; and it enumerates *powers* delegated to the Federal Government, and to remove all doubts about their extent, enumerates other *powers* retained by the States. But where are all other rights and powers? Still in those two great reservoirs, State and popular sovereignty.

Do these amendments leave to the new States the right to establish slavery? Such States *never had* any constitutional rights in the slave trade, foreign or domestic; for such rights are expressly denied to them, and conceded to the Old Thirteen only till 1808. Every one of the new States, from its entrance into the Union, has been under a

constitutional power of prohibition upon this subject, which Congress might exercise or not, at their discretion. They *did* exercise this power over the domestic slave trade, in the Northwestern Territory in 1789; over all slave trade, in the Louisiana Territory in 1804; over the foreign slave trade, in the Florida Territory in 1822. They stipulated *not* to exercise this power over the domestic slave trade, in the Tennessee Territory in 1789; in the Georgia Western Territory in 1798. They *did* exercise this power over the foreign slave trade in the whole Union in 1808. They *did* exercise this power over all slavery, in the Northwestern Territory in 1789; in the Indiana Territory in 1800; in the Michigan Territory in 1805; in the Illinois Territory in 1809; in all Territory West of the Mississippi, and North of N. lat. 36° 30′ in 1820, and in the Wisconsin Territory in 1836. They *did* exercise this power over all slavery, in Ohio in 1802; in Indiana in 1816; in Illinois in 1818. Hence all the rights of the new States over slavery are *legislative*, and not *constitutional*. But if legislative, may they not be revoked? For some of the new States I answer in the negative. Kentucky, an independent nation by separation from Virginia in 1785, entered the Union like Texas, a Slave State through the exercise of its sovereignty. Tennessee, Louisiana, Mississippi, Alabama, Missouri, Arkansas, Florida, on entering the Union, possessed the right to establish and maintain slavery within their respective limits, by Congressional grant to them as Territories, founded, in the case of Tennessee, upon the compact of cession with North Carolina; in the cases of Mississippi and Alabama, upon the compact of cession with Georgia; in the case of Louisiana, upon the Treaty of cession with France; and in that of Florida, upon the treaty of cession with Spain: and they were admitted to the Union without any interdiction of the privilege thus expressly granted. Hence they came into the Union as Slave States by Congressional grant, and not by constitutional or sovereign right; and this grant, in each of them equivalent to a compact, once made, cannot be annulled. The Union, through Congress, took them with their slavery, and by interfering with it within their respective limits, would violate the condition, and authorize them to assume what they never before possessed, separate nationality. But while Congress could not interfere with slavery in either of these new States, it could abolish slavery in any State of the Northwestern Territory. This Territory was ceded to the Union under a positive interdiction of slavery for ever, and these States entered the Union expressly subject to the interdiction; and hence, if either of them should establish slavery, it would violate its compact with the Union, and the compact of the Union with the ceding States, and authorize Congress to interfere. Then as the Constitution arms Congress with plenary power over all slave trade, and denies the temporary suspension of this power to the new States, none of these States can claim, under Amendments IX. and X., constitutional or sovereign power over slavery. Certain powers over slavery, being expressly granted to Congress by Clause 1. of Sec. IX. of Art. I. cannot, under these amendments, be retained by the States or the people.

The Constitution, in Sec. IV. of Art. IV. says that, "The United States shall guarantee to every State in this Union, a republican form of government." As this authorizes the Federal Government to interfere against any other State governments than those which are republican, what power does it confer over slavery in the new States? If a State should now be admitted without slavery, under no interdiction of slavery while a Territory, and with no Congressional compact concerning slavery, could it afterwards establish this institution as a

State right? It could not import slaves from abroad against the act of 1808; and if Congress should exercise their constitutional power over the domestic slave trade, it could not import them from any State or Territory of the Union. If then it could not import materials for slavery, could it find them among its own citizens, and reduce any portion of them to servitude, excepting in punishment for crime? Such act would be an unconstitutional violation of that "republican form of government" which "The United States *shall* guarantee to every State in this Union." Here then is a power over slavery which is denied to the new States by this section of the Constitution, and therefore cannot be claimed for them under Amendments IX. and X.

Whence did the Old Thirteen States derive their right to establish and maintain slavery within their respective limits? *Not from the Constitution.* This right is older, in each of them, than any Federal Constitution, whether of 1778 or 1787. It became part of their sovereignty by the Declaration of Independence, and was not surrendered, either to the Continental Congress, or the Federal Convention. Existing before the Constitution, and not mentioned in that instrument, it is not the creation of compromise; and hence no one of the Old Thirteen can refer to "the compromises of the Constitution" for its rights over slavery at home. For the new States no such compromises were made. In these, such rights must be either sovereign, existing independent of the Constitution, or granted by Congress, either during their territorial existence, or upon their admission as States. The Constitution creates no sovereignty in the old States; for no one of them thereby acquires any sovereign right which it did not previously possess. Under this compact, the old States surrender, but do not acquire sovereignty; and as equivalents of the surrender, each acquires rights of protection from the whole. But these rights of protection are not rights of sovereignty, which can be enforced by the *last resort of nations.* If then the Constitution grants no sovereignty to the old States, they cannot plead the compromises of the Constitution for their sovereign rights over slavery at home. And if it grants no sovereignty over slavery to the new States, they are equally destitute of such plea. The Constitution left the old States on this point as it found them, by *silence*, and not by *compromise.*

How, in relation to slavery, did the Constitution find, and how has it left, the new States? Vermont and Kentucky, having separated, the first from New Hampshire, Massachusetts, and New York, in 1777, the second from Virginia in 1786, before the adoption of the Constitution, were admitted in 1791. The Confederacy found them with full attributes of sovereignty, as it recently found Texas, or might now find Britain, or France. Among these attributes were untrammelled domestic rights over slavery; rights which Vermont had exercised by constitutional prohibition, and Kentucky by constitutional toleration and statutory regulation. Did the Union admit them with these rights untrammelled? It *did not*, for it *could not.* The Constitution, made in 1787, went into operation in 1789, two years before the admission of these States; and it confines the privilege of the slave trade till 1808 to the States *then existing.* When existing? Existing in 1787, in the time of the Convention, and represented in that body; or in 1788, at the adoption of the Constitution, by nine of the twelve States so represented; or in 1789, when the first Congress under it assembled. Neither Vermont nor Kentucky were ever represented in the Continental Congress, or the Federal Convention. Existing as independent nations before the framing or adoption of the Constitution, they were

no more parties to it than Britain or France; and entering the Union two years after the Constitution went into operation, they entered it expressly excluded from the provision just mentioned, and under a constitutional prohibition against the slave trade. Thus the Constitution, instead of granting to these two States *all* or *any* sovereign rights over slavery, expressly takes one of these rights away. Nor is this all. The ordinance of 1787, ratified, adopted, re-enacted unanimously, by the first Congress under the Federal Constitution in 1789, confines to the "original States," the Old Thirteen, the right to reclaim slaves fugitive to the New States. Is not this restriction in the ordinance removed by the Constitution, which gives the right of reclamation to all the States, without distinction between New or Old? The ordinance is expressly a perpetual compact between the United States and the ceding States, and between the United States and the People and States of the North-Western Territory; and, therefore it cannot be annulled by the Constitution without express terms, and the Constitution contains no such express nullifications. But the ordinance may be repealed; for it says that, "The following articles shall be considered as articles of compact between the original States and the People and States in the said Territory, and remain for ever unalterable, unless by common consent." This repeal by common consent is not wrought by the Constitution; for it contains nothing expressly against the ordinance, a repeal is not necessary to any of its expressly granted powers, and no unnecessary powers can be deduced from it by implication. Then as the ordinance was re-enacted by the first Congress under the Federal Constitution, a Congress composed, in no small part, of those who had composed the Convention and made the Constitution, we must infer that the ordinance and the Constitution are not inconsistent. Then as the ordinance confines to the Old Thirteen, the right of reclaiming fugitive slaves from the North-Western Territory, and as the ordinance, thus re-enacted in 1789, is still the law of the land under the Constitution, we must infer that the Constitution does not carry the right of reclamation from the North-Western Territory beyond the "original" Thirteen States. Hence if slaves should escape from any New State into either of the five North-Western States, they could not be reclaimed; and hence Vermont and Kentucky entered the Union in 1791, without the power retained by the Old Thirteen, of reclaiming slaves fugitive to the North-Western Territory. Tennessee, ceded to the Union by North Carolina in 1789, and admitted in 1796, Mississippi and Alabama, ceded to the Union by Georgia in 1798, and admitted in 1817 and 1819, not having been represented in the Continental Congress or the Federal Convention, and admitted long after the Constitution went into operation, were expressly excluded from this clause concerning the slave trade, and impliedly excluded from the ordinance of 1787 for the surrender of slaves fugitive to the North-Western Territory. And thus, instead of entering the Confederacy with untrammelled sovereignty over slavery, they entered it subject to a constitutional power of prohibition over all slave trade, domestic and foreign, and to a restraint upon the surrender of fugitive slaves. While parts of North Carolina and Georgia, these territories possessed original inherent sovereignty over slavery. But these cessions annihilated all their sovereignty of every kind, and made them the property of the Union, with no powers excepting those derived from the compacts of cession, or from acts of Congress. Louisiana came into possession of the Union as a colony of France, entirely subject to its laws, and consequently without any rights of sovereignty. Then as

entire sovereignty over the colony existed in France, it was transferred by the cession, not to the colony, but to the United States. Then as the Territory of Louisiana became the property of the United States without sovereign power over anything, and subject to all constitutional acts of Congress for its government, the States of Louisiana, Missouri, Arkansas, can plead neither inherent sovereignty nor constitutional compromise for their domestic rights over slavery. They never could have participated in the temporary toleration of the slave trade, or in the ordinance of 1787 relative to fugitive slaves. All their rights over slavery flow from the *Grant* of Congress in expressly excepting them, while Territories, from the ordinance of 1787 concerning slavery, and from the forbearance of Congress in admitting them as it found them, with slavery established before the cession by France. Florida, coming into the possession of the Union as a colony, from Spain, without any sovereign power, rests upon the same foundation with Louisiana. The five States of the Northwestern Territory are members of the Union under a perpetual denial of all rights over slavery, by the ordinance of 1787. Iowa, a part of the territory ceded by France, enters the Union under a perpetual prohibition of slavery by the Missouri Compromise, an act of Congress expressly forbidding slavery in all the Territory West of the Mississippi and North of N. Lat. 36° 30′, but neither expressly nor impliedly authorizing slavery South of that parallel. Thus while the Old Thirteen States, Vermont, Kentucky, and Texas, can plead inherent sovereignty for their rights over slavery at home, the other New States can plead neither inherent sovereignty nor constitutional compromise.

But under the "compromises of the constitution," the slave States claim an equality of numbers with the free States, and consequently a balance of power in the Senate. Where is the article, section, clause, sentence, on which such claim can be founded? Not in the Constitution; not in the records of the Federal Convention, or of either of the State conventions to which the Constitution was submitted. The pretensions of the Slave States upon this point, so frequently urged in Southern journals, speeches, and official documents, are condensed in a message by a Governor of a Western State, recently delivered to its Legislature, and in the following terms:

"The spirit of modern abolitionism, if it existed at all in the early days of the Republic, stood rebuked by the compromises of the Constitution."

"It stood equally rebuked by the Missouri compromise, which was a virtual continuation of that of the constitution."

"Our Revolutionary Fathers, in adjusting the proportion between Free and Slave holding States, substantially fixed it in the latitude of 36° 30′."

Here are three direct and positive declarations, by the chief magistrate of a State to its Legislature, under all the solemn formalities of authority, concerning our Revolutionary Fathers, in connection with slavery, every one of which is contradicted by their whole history.

The first impliedly denies that the spirit of modern abolitionism existed in the early days of the Republic. If by modern abolitionism he means hostility to slavery, I would refer him to the legislation of the Continental Congress, the proceedings and great work of the Federal Convention, the legislation of the first Congress, and the declarations

of Washington, and of all the great Revolutionary lights of Maryland, Virginia, and North Carolina. If "modern abolitionism" be of modern growth, I admit that it could not have been rebuked by our Revolutionary Fathers. But if it be like the abolitionism of the Revolution, I refer, for the character of its prototype, to those Revolutionary sources whose testimony is so ample. But this spirit of abolitionism was rebuked by the compromises of the Constitution! The Revolutionary generation which made the Constitution, had already abolished the slave trade in Rhode Island in 1774, in the whole Union in 1776; had interdicted slavery in Vermont in 1777, abolished it in Massachusetts and Pennsylvania in 1780, and in New Hampshire, Rhode Island, and Connecticut in 1784; had prohibited the introduction of slaves into Virginia, in 1786, and had abolished slavery in the Northwestern Territory in 1787. Assembling under *such* auspices, the Convention made the first compromise with slavery, by tolerating the slave trade to the Old Thirteen till 1808, and providing for its prohibition afterwards. Did this ultimate and total prohibition of all slave trade rebuke that spirit of abolition which had always spoken so loudly, and done so much, during thirteen years? And for the very purpose of preserving the New States from slavery, they were excluded from this temporary toleration. If all this were designed to rebuke the spirit of abolitionism, it would gladly stand thus rebuked, till every chain were broken and every bondman free! Under the same auspices did the Convention make the second compromise with slavery, in the provision for the surrender of fugitive slaves. The want of such provision during the union of the Colonies from 1774 to 1778, and afterwards under the Old Confederation, was severely felt, not in encouragement to emancipation, but in the loss of property at the South, and in the increase of a burdensome population at the North; and to remove these evils, and mitigate the evils of slavery produced by the contiguity of Free and Slave States, and not to rebuke the spirit of emancipation, did the Convention devise this provision. Could it restrain the legislation of Congress over slavery? Or obstruct its removal from any State? If not, how could it rebuke the spirit of emancipation? Under the same auspices, the Convention made the two remaining compromises with slavery, in slave-representation, and slave-enumeration in direct taxation. The necessity of direct taxation was foreseen, and it was supposed, erroneously as events have proved, to be the principal source of revenue; and as some basis was necessary, that of representation in Congress was regarded as the most equitable. The Northern and Middle States, having the greatest proportion of free population, foresaw that, if this were the only basis of representation, while representation was the basis of taxation, they would pay the greater portion of the taxes, while the Southern property in slaves would be exempted from taxation. The Southern States foresaw that, if free white population alone were represented, their representation would be numerically much less than that of the Northern and Middle States; and they also foresaw that, if property alone were the basis, they, with comparatively less free, and a numerous slave population, would bear an undue share of taxation. Hence the two sections made the compromise of representation and direct taxation; the Northern and Middle States assenting to slave representation, to obtain equality in taxation, and the Southern assenting to equality in taxation, to obtain equality in representation These two compromises encouraged, instead of rebuking, the spirit of emancipation; as the Southern States, by augmenting their free, and reducing their servile population, would approach nearer to equality in

both taxation and representation, obtaining more of the one, and avoiding more of the other. These are all the compromises of the Constitution upon slavery; and I have yet to learn how either was designed to rebuke the spirit of emancipation.

The second of these declarations is that, our Revolutionary Fathers, in establishing the Constitution, adjusted the proportion between Free and Slave States, and substantially fixed it upon latitude 36° 30′. In what article, section, clause, sentence, or line of the Constitution, in what debate upon it in the Federal or either of the State Conventions, do we find the slightest evidence of this adjustment? Of its having been even imagined by any member of either of those assemblies? Of the twelve States represented in the Convention, New Hampshire, Massachusetts, Connecticut, and Pennsylvania had already abolished slavery, while New York and New Jersey were expected to follow their example at no distant period; and Rhode Island, the only one of the Old Thirteen not represented in the Convention, had prohibited the slave trade before the battle of Bunker Hill, and had abolished slavery three years before the Convention assembled. Here then were seven of the Thirteen already known as hostile to slavery; while in the Convention, ten States of the twelve wished to abolish the foreign and domestic slave trade immediately, and did invest Congress with the power of immediately interdicting both to all the New States. And while the Convention were seeking these provisions, the Continental Congress, sitting with the Convention in Philadelphia, where the members of the two bodies were in daily and intimate association, were interdicting slavery from all the five States of the Northwestern Territory. I admit that the admissions of Vermont and Kentucky were then contemplated. But as the first had interdicted, while the other had tolerated slavery, their admissions would not change the proportion between Free and Slave States. What then was the proportion contemplated by our Revolutionary Fathers, so far as their views on this point are determined by the Continental Congress and the Federal Convention? Seven Old and six New States *without*, and six Old and one New State *with* slavery; a proportion of thirteen to seven! Does this seem like adjusting the proportion between Free and Slave States, on the basis of numerical equality? So far from seeking any such numerical equality, Delaware, Maryland, Virginia, and North Carolina then gladly looked forward to the extinction of slavery, while the whole Thirteen States represented in the Continental Congress when the Constitution was in the hands of the Convention, provided for the perpetual exclusion of slavery from all the Territory then belonging to the Union as the nursery of New States.

And in adjusting this numerical equality, our Revolutionary Fathers substantially fixed the boundary upon the line of N. L. 30° 36′!! If this mean anything, it is that this line would divide the Free and Slave States equally. This line, which is the Southern boundary of Virginia and Kentucky, would throw Delaware, Maryland and Virginia into the Northern Section, and thus divide the Free and Slave States in the proportion of ten to three! If the Convention contemplated the admission of Kentucky and Vermont, and foresaw, as they must, the admission of five States from the North Western Territory, and also foresaw, as they might, the admission of Tennessee and the Georgia Western Territory to the Union, and their ultimate growth to three or four States, then, in establishing this line as a boundary, they would have divided the two sections in the proportion of seventeen to six or seven! If our Revoltionary Fathers never contemplated any such equality be-

tween the Free and Slave States, the assumption of this or any other boundary must be abandoned. If they did contemplate such equality, they could never have dreamed of this boundary!

And the Missouri compromise was a virtual continuation of the constitutional compromise about this numerical equality! As no such constitutional compromise was imagined, this Missouri compromise cannot be any such continuation. And even if it were, the line which it assumed, besides throwing four of the present Slave States into the section of the Free, would divide the remaining Territory east of the Rocky Mountains in the proportion of about one fourth to the Slave, and three-fourths to the Free States. And if this line were applied only to the Territory remaining after the admission of Missouri, and without including Oregon, the numerical proportion would be fourteen Free, and twelve Slave States, and Territory enough for twelve Free, and four Slave States; a proportion of twenty-six to sixteen! If our Revolutionary Fathers provided, in the Constitution, for such numerical equality, their intentions were sadly defeated by this Missouri compromise. And if the Missouri compromise were designed to secure this equality, its authors, when making it in 1820, must have foreseen the annexation of Texas, and the conquest of Mexico; for nothing less than such prophetic vision can save them from the imputation of legislating against their own designs.

Under the "Compromises of the Constitution," the Slave States have demanded the right of New States to admission, without any conditions imposed by the Federal Government, excepting the guarantee of a republican constitution. New States can be admitted only as foreign, independent nations, like Kentucky, Vermont, or Texas, or as Territories, the exclusive property of the Union, entirely subject to its laws, and without any inherent sovereignty. In the first case, they relinquish, upon admission, all the sovereignty vested in the Federal Government, and retain all the rest; and in the second, they receive from Congress all the sovereignty not thus vested, or not denied by the act for their admission. If then, New States are formed from Territories belonging to the Union, and subject to its sovereignty under the constitutional power to make all needful rules and regulations for their government, cannot Congress prescribe the terms of admission? Having exclusive jurisdiction over the Territories, Congress may refuse to admit them at all, and therefore may, within the constitutional limit of guaranteeing a republican government, prescribe the terms of admission. Is slavery essential to a republican government? Such is not the doctrine of the Free States. Can Congress interdict slavery in New States? It *did* in the five States of the Northwestern Territory, by eight different acts. And if this Congressional power be constitutional over the Northwestern Territory, why is it not over the Southwestern, or any other Territory? This power was yielded, unwisely, wickedly yielded in the admission of Missouri. But an error of Congress is no amendment of the Constitution, to bind any future Congress to errors of similar or any character; and if this point were unwisely yielded by the Free States heretofore, may God grant that it be wisely and virtuously maintained hereafter! The Constitution does not expressly authorize Congress to interdict slavery in a New State, as a condition of admission; and it reserves to the people, or to the States respectively, all powers not expressly granted to the Federal Government, or not necessary to carry those expressly granted into effect. But it expressly authorizes Congress to interdict all slave trade after 1808; invests Congress with full governmental power over the Territories, says that

New States *may* be, not that they *shall* be, admitted ; and imposes no other restraint upon the discretion of Congress over such admission, than the guarantee of a republican government, and the refusal to divide a State, or to unite two or more States, without the consent of their legislatures, as well as of Congress. Where then is the constitutional compromise under which New States can claim sovereign power over slavery ? If such New States originate in Territory, Congressional *grant*, dependent on Congressional discretion, is their sole foundation for such institution.

Under the "Compromise of the Constitution," the Slave States have denied all right of petition to Congress upon the subject of slavery. Where, in the Constitution, is such compromise ? The first article of the Amendments guarantees freedom of speech and the press, and the right of petition to the government for redress of grievances ; and as these *compromises* are plainly *expressed*, they cannot be contradicted or annulled by any *compromises* raised by explication or construction.

Under the "Compromises of the Constitution," the Slave States have demanded of the Federal Government its interposition with foreign governments for the surrender of fugitive slaves. The Constitution contains no such compromise in terms. And as slaves are not recognized by the Laws of Nations as property, like cattle, or as criminals subject to mutual surrender or punishment, like pirates, and as the United States are subject to that code as one of the national family, such *compromise* cannot be raised by implication.

CHAPTER III.

Having considered the powers of the Federal Government over the slave trade, domestic and foreign, and having also considered all but one of the several "constitutional compromises" which the propagandists of slavery urge in support of that institution, I will now consider the most important of these alleged compromises, and will also consider the consequences of permitting slavery to extend indefinitely, and the consequences of its confinement within its present limits.

Under these "Compromises of the Constitution," the Slave States have demanded the establishment of slavery in all new Territory. They say that the citizens of any State may carry and establish their slaves, as *property*, in any Territory of the United States, and that all Acts of Congress forbidding this, are unconstitutional. As this pretension virtually abolishes the Federal Constitution, the constitutions of the several States, the Common Law, the Laws of Nations, and the principle of national independence, I will review it extensively.

The first question presented by this pretension is, *What is property ?* The citizens of any State are authorized to carry their *property* into any other of the States, or, with the permission of the Federal Government, into any Territory of the Union. But this *property* must be something which bears that definition *in* the State or Territory *into which*, and not merely in that *from which*, it is carried. It must be *property* in a general sense, *property* under the Constitution and Laws of the United States, and of every State of the Confederacy. The right must be common to all the States and Territories ; a right in which all of them can participate on equal terms. What then is *property ?* Here I must refer to that code of jurisprudence which prevails in every State of the Confederacy, and is recognised by the United States, The Common Law ; for

what the Common Law recognises as *property*, is such in every State of this Union, and is such under the Constitution and Laws of the United States.

But does the Federal Constitution recognise the Common Law? Let us see. "The privilege of the writ of Habeas Corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it." Fed. Const., Art. I., Sec. IX., Cl. II. The writ of Habeas Corpus is a grand feature of the Common Law, founded upon one of its fundamental principles, the right of personal liberty. But where shall we seek a definition of the Habeas Corpus thus mentioned in the Constitution? In the Common Law alone; for in no other code older than the reign of Napoleon, is such process prescribed. By this mere mention of a process by its name, without definition or explanation, the Constitution refers to something well known, generally understood, susceptible of explanation, and thus recognises the source of that explanation. And when a writ of Habeas Corpus is demanded of the Federal Government, what governmental power shall adjudicate it? The Federal Judiciary. Then does not this clause recognise the Common Law as the code of the Federal Judiciary?

"The President, Vice President, and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." Fed. Con., Art. II., Sec. IV. Where shall we find an explanation of *impeachment, conviction, treason, bribery, crimes, misdemeanors?* In the Common Law.

"The trial of all crimes, except in cases of impeachment, shall be by jury." Fed. Con., Art. III., Sec. II., Cl. III. To what code shall we refer for a definition of *jury?* To the only code in the world which recognised the institution when the Federal Constitution was adopted, the *Common Law*. And while such *trials* must be by *jury*, how shall they be conducted? Upon what principles? By what forms? We must ask the Common Law.

"A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime." Fed. Con., Art. IV., Sec. II., Cl. II. While the constitutions or statutes of the several States may define treason against them, where shall we seek a definition of *felony?* In the Common Law. And as the Common Law, in each State, recognises crimes not covered by its statutes, what authority but the Common Law can the demanding State show for the surrender of fugitives in such cases?

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." Fed. Constitution, Amendment IV. What did the Congress which proposed, and the State Legislatures which adopted this amendment, mean by *unreasonable searches and seizures, warrants, probable cause, oath, affirmation?* If a citizen be aggrieved by unreasonable searches or seizures, he must seek redress of the Judiciary, who must interpret these terms. And where shall the Judiciary seek light? In the Common Law.

"No person shall be held to answer for a capital or other infamous crime, except on presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual

service, in time of war, or public danger; nor shall any person, for the same offence, be twice put in jeopardy of life or limb, nor shall be compelled in a criminal case to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." Fed. Con., Amendment V. What is a *presentment*, an *indictment, due process of law?* Of *what law* does this amendment require *due process?* What is a *criminal*, as distinct from any other *case?* What is *private property?* The Common Law alone can answer these questions.

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury, of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence." Fed. Constitution, Amendment VI. What is a *criminal prosecution?* A trial by jury? How shall an *impartial* jury be secured? *How* shall the accused be *informed* of the nature or cause of the accusation? What is being *confronted with witnesses?* What is *compulsory process* for obtaining witnesses? What is *counsel?* What is *defence?* We must ask the Common Law.

"In suits at Common Law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the Common Law." Fed. Con., Amendment VII. Indeed! Here the Constitution not only secures trial by jury in cases involving a value of more than twenty dollars, and thus far recognises the Common Law, but requires all cases tried by a jury, to be reviewed exclusively according to the Common Law. Hence this amendment not only recognises the Common Law, bnt where juries are required, *repudiates* every other code.

"Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted. F. C. Amendment VIII. What are *bail*, and *fines?* What bail or fines are *excessive?* What punishments are *cruel* and *unusual?* We must ask the common Law.

"The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others, retained by the people. F. C. Amendment IX. What are *rights?* What is *denial* of right? The Common Law must explain, and consequently the Common Law must show what rights are retained by the people.

The Common Law of England is the birthright, the inheritance of every person born in an Anglo-Saxon community; and of course it was brought to every one of the Old Thirteen States by its English founders, and is the birthright of their posterity. The Continental Congress, at their first session in September, 1774, in their Declaration of Rights, say that, "The respective Colonies are entitled to the Common Law of England, and especially to the inestimable privilege of being tried by their peers of the vicinage, according to that law." Then as the Convention of 1787 represented twelve Anglo-Saxon communities, possessing the Common Law as a birthright, and knowing no other code, they never could have intended, in the Federal Constitution, to recognise any other in the internal relations of the States with each other. *And they did not. And they could not;* for they were merely authorized to devise a compact among communities already *organized*, and not to abolish or change their *organization*.

To show that the framers of the Constitution intended to recognise the Common Law as the code of the Federal Government, I will refer to eminent jurists, Chief Justices of the Federal Supreme Court. Chief Justice Ellesworth, the first who sat on the Federal bench, appointed by Washington, and therefore entitled to *some* consideration, said in one of his decisions, "The Common Law of this country remains as it was before the Revolution." Chief Justice Marshall, a jurist whom I need not praise, in deciding the great case between Livingston and Jefferson involving the *batture* of New Orleans, said, "When our ancestors emigrated to America, they brought with them the Common Law of their native country, so far as it was applicable to their new situation; and I do not conceive that the Revolution in any degree changed the relations of man to man, or the law which regulates them. In breaking our political connection with the parent State, we did not break our connection with each other." Mr. Duponceau, in his "Dissertation on the jurisdiction of courts in the United States," says, "I consider the Common Law of England the *jus commune* (*common law*) of the United States. I think I can lay it down as a correct principle, that the Common Law of England, as it was at the time of the Declaration of Independence, still continues to be the national law of this country, so far as it is applicable to our present state, and subject to the modifications it has received here in the course of half a century." The whole current of Federal legislation and jurisprudence recognise the principles of the Common Law as binding the Federal Government.

If then the Common Law be the code of the Federal Government, how does it deal with slavery? *The Common Law knows no slaves!* It recognises no slavery! It is an universal, unconditional act of emancipation! It annihilates slavery whenever brought within its reach! It never touches fetters, manacles, or chains, unless imposed for crimes, but to rend them asunder, to knock them off, and bid the bond go free! Whenever and wherever a slave can stand in the sunshine of the Common Law, "his body swells beyond the measure of his chains, which burst from around him; and he stands redeemed, regenerated, and disenthralled by *this* irresistible genius of universal emancipation!" Shall we consult the great lights of the English bench? Chief Justice Holt says, "By the Common Law, no man can have property in another. The subjects of dominion or property are *things*, as contradistinguished from *persons*." Chief Justice Mansfield says, "The state of slavery is of such a nature, that it is incapable of being introduced on any reasons, moral or political; but only *positive law*, which preserves its force long after the reasons, occasions, and time itself from which it was created, are erased from the memory. It is so odious, that nothing can be suffered to support it but positive law."

I know that this hostility of the Common Law to slavery has been denied. Those learned in the law have asserted that, white slavery existed in England, very shortly before the commencement of the Anglo-American Colonies, and that negro slavery is merely a shoot from the tree of English villeinage. I know that white slavery once existed in England in the severest modes, and can be traced to a Saxon origin; and I trace its gradual decline to that Norman conquest which is erroneously made the scapegoat of all English tyrannies in the middle ages. But waving these points as foreign from my purpose, I find that *villeinage in gross*, or absolute slavery like our own, had totally disappeared in England in the middle of the sixteenth century; that *villeinage regardant*, a species of tenancy bound to the soil, had then nearly

disappeared; and that an attempt to revive absolute slavery as a punishment of crime, was then indignantly and effectually resisted as inconsistent with the Common Law, and totally repugnant to popular sentiment among all ranks. And I assert that the African slavery which ultimately reached the Anglo-American colonies, is of Portuguese and Spanish, and not of English origin. White slavery had disappeared from England in 1550, nearly sixty years before the first settlement at Jamestown, seventy years before the landing at Plymouth, and seventy years before the first cargo of African slaves entered James River in a Dutch ship, and about two hundred and twenty-five years before the Declaration of Independence. The opinion of Lord Mansfield, that slavery was repugnant to the Common Law, and from which I have already quoted, was delivered in 1772, four years before the Declaration of Independence; and the opinion of the great and good Lord Holt, that, by the Common Law, *no man can have property in another*, was delivered about eighty years before that great event. Therefore I assert that slavery had disappeared from England, and was repugnant to the Common Law, when the first Anglo-American colony was planted; and that Negro slavery is no shoot from the tree of Saxon *thraldom*, or from that much wilder form of slavery, Norman *villeinage*.

Then as the Common Law, thus repugnant to slavery, is constitutionally the code of the Federal Government, I will now consider its application to the Territories. All lands, districts, regions, or countries within the boundaries of the United States, and not within the exclusive jurisdiction of any State, are the property of the United States in their Federal capacity; and consequently the Federal Government have exclusive jurisdiction over them, legislative, judicial, and executive. This jurisdiction may be partially dormant, not exercised, as in regions inhabited exclusively by the Aborigines. But it may be exercised at any moment through an act of Congress; and whether exercised or not, it is absolute, exclusive, completely barring all other jurisdictions. The usual exercise of this jurisdiction is through an act of Congress, establishing a territorial government. But without such act, the Common Law constitutionally reigns in every part of such Territory; and hence if a crime be committed in such Territory, it may be tried within the nearest Federal District. An example of this occurred two or three years ago, in the trial, conviction, and execution, by the Federal Circuit Court for Missouri at St. Louis, of three or four American citizens, for the robbery and murder of a Mexican citizen of Santa Fe, perpetrated in what is called the Indian Territory. I also refer to the practice of the Federal Government in establishing in such unsettled Territory, forts and military posts for the protection of travellers, hunters, and emigrants. But leaving out of the argument all Territory not covered by a territorial government, I will consider the case of all such Territory thus specially organized.

"The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular State." F. C. Art. IV., Sect. III., Clause II.

This invests the Federal Government with exclusive jurisdiction over the National Territory. And so careful were the Convention to guard this right, while they guarded the rights of the several States, that they would not leave either to be impaired by construction upon any other portion of the constitution, and therefore added this provision concerning "any claims of the United States, or any particular

State." The clause recognises the Territories as the property of the Union; and its proprietary rights have been exercised over the Territories, from the adoption of the Constitution to the present time. As public lands, the territories are owned by the Union in absolute, unconditional, allodial tenure, and therefore may be granted upon any conditions, whether in lease, fee conditional, fee simple, allodial, or not at all. Feudal tenures being inconsistent with American policy, Congress have never transferred the public lands, excepting in lease, as with the mineral lands, and allodial tenure, as in all other cases. But the conditions on which they may be granted depend on Congressional discretion. Whoever enters them without Congressional authority, is a trespasser, and may be ejected by *due process of law*. Then what power can prevent Congress from closing them against entry? From enacting that, no more public lands shall be sold during the next century? Only the people, speaking through the ballot box. If then the United States own these Territories in absolute property, and therefore may prescribe the conditions on which they may be entered by grantees, and only by grantees can they be entered at all, how preposterous is the doctrine that the citizens of any State may carry their slaves to these Territories as *property!* If they cannot carry *themselves* there without Congressional permission, surely they cannot prescribe what they shall carry there as *property*.

But as Congress may make all *needful* rules for the government of the Territories, Congress alone are judges of the need. The advocates of slavery would confine this power to rules *absolutely necessary*, and say that, as the exclusion of slavery is not *indispensable*, it cannot be excluded. But as the term *needful* must be taken in its current and popular signification, it covers not merely *necessities, indispensabilities*, but *conveniences, utilities, proprieties, expediencies*, according to Congressional discretion. Hence the question for Congressional decision is not whether the Territories can exist as such, notwithstanding the burden of slavery, but whether slavery is useful to them. But the welfare of the Territories is not the only question for Congress, in exercising this power; that of the Union also being a primary consideration. Hence in deciding whether the toleration or interdiction of slavery is *needful*, that is, useful, salutary, expedient, Congress must consider the interests of the United States, as well as of the Territories. A sound discretion for the *whole*, consistent with the *claims* of the United States and the several States, is the only constitutional restraint upon Congressional legislation for the Territories. And have any of the States *claims* to establish slavery in the Territories! *Claims* to control the absolute property of the Union! Then as the Federal Government have exclusive jurisdiction over the Territories, and in establishing their jurisdiction, must establish the Common Law, I maintain that the Common Law must reign paramount, judicially absolute, in all the Territories, unless expressly excepted by Act of Congress. And as the Common Law knows no slavery, recognises no property in man, applies the term property to *things* only, and not to *persons*, citizens of Slave States cannot, of right, carry their slaves into a Territory and hold them there as *property*. And as the Territories are the absolute property of the Union, and as such may be closed against all farther entry, the citizens of no State can, of right, enter them with slaves or anything else.

But the Common Law is not the only code to which we must refer for a definition of the term *property*. *The Laws of Nations* cover the subject, and that code is equally imperative with the Common Law in

denying *property* in *man*. Are the Laws of Nations imperative upon the United States? They are so; and the obligation flows from, is incident to, inherent in, their nationality. Were their Constitution silent upon this point, they would still be bound, as one among the family of nations, by that code which all civilized nations mutually acknowledge. They have not entered this family as an Ishmaelite, a common disturber, disavowing allegiance to the social incidents of their position. This would make them pirates, enemies of mankind, legally liable to be subdued and denationalized by a combination of all nations for national and common safety. They have entered this family as a civilized nation, impliedly, neccessarily acknowledging their allegiance to the international code, and have been acknowledged as such by all its civilized members. Nor have they left this allegiance to necessary implication, having expressly acknowledged it in their compact with each other, the Federal Constitution.

"No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal." (F. C., Art. I., Sec. X. Clause I.)

"No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, lay any duty on tonnage, keep troops, or ships of war, in time of peace, enter into any agreement or compact with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay." (Art. I., Sec. X., Clause II.) All the things here prohibited to the States involved relations with foreign nations, and consequently are acts of nationality; and they are forbidden to the States because they are necessarily invested in the Federal Government.

"The judicial power of the United States shall extend to all cases in law and equity arising under treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies between a State, or the citizens thereof, and foreign States, citizens or subjects." (F. C., Art. III., Sec. II., Clause I.) Treaties are the compacts of nations with each other; ambassadors, public ministers and consuls, are national agents, representing one nation to another; admiralty and maritime jurisdiction is the jurisdiction established by international law over commerce upon the ocean, the mutual intercourse of nations on their common highway; controversies between a State of our nation or its citizens, and foreign States, citizens or subjects, involve the rights of foreign nations, as well as of the United States. Hence, any subject over which this clause gives jurisdiction to the Federal Judiciary, is covered, regulated, explained, by the Laws of Nations; and hence this clause is an express recognition of that code. Then, as that code must reign wherever the United States have jurisdiction, to that code must we refer for a definition of *property* beyond the jurisdiction of any State. Hence, while men are *property* in South Carolina, according to its positive laws, yet, when that State assumes to carry *property* beyond its own jurisdiction, it must use the term in the sense recognised by the world at large, by all nations in common, the sense explained by the Laws of Nations. Does this code acknowledge slavery? It authorizes the slave trade; for as its very foundation is the mutual independence of nations, it must allow one nation to sell its subjects, and another to buy them. But it does not authorize one nation to enslave the subjects of another without its consent, for it acknowledges the right of the nation aggrieved to declare

war against the aggressor, and requires all neutral nations to respect the belligerent rights of the aggrieved. Thus, if France should seize Russian subjects, and sell them in slavery to Spain, Russia would have just cause of war against France, and could demand of all nations to abstain from supplying France with arms, to respect its blockade of French ports. So say the Laws of Nations, and so far they do not recognise slavery. And if a slave escape from one nation to another, the latter is under no obligation, upon penalty of war, reprisal, or anything else, to surrender the slave to the former. Thus, if a slave escape from a French colony to Russia, the latter could refuse to surrender it, saying that, if a slave under French, he was not a slave under Russian laws; and one nation is not obliged to recognise the positive laws of another concerning persons. A fugitive slave is not a criminal, whom nations are mutually bound to surrender; and as man is not property in all nations, and among European nations, is property only in two, the Laws of Nations do not recognise man as property in a general, international sense, like ships, money, or merchandise. Even nations which recognise slavery at home, as Russia and Turkey, do not acknowledge the slave laws of other nations; and hence, if a slave should flee to either of them, and be demanded, the answer would be, "this person may be a slave by *your* laws, but is not by *ours*; and as we do not recognise *your* slave laws, they being no part of the laws of nations, this fugitive is free on our soil." Slaveholders have applied to the Federal Government for the restoration of slaves fugitive to the British colonies, and have been told that, so soon as a slave touches British soil, *he is free*. Has anybody supposed that such refusal was a legitimate cause of war? *The Federal Government has not.*

The advocates of slavery may say that the laws of nations reign in the Territories between American citizens and foreigners, and not between American citizens of the same or different States, the subjects of the same nation. But beyond the States, the citizens of each are subject to the laws of the United States, which include the Common Law and the Laws of Nations; and hence for the definition of terms used in a general sense, they must refer to the Laws of Nations, if they are not estopped by the Common Law. If a citizen of South Carolina and a citizen of Michigan have a controversy about a ship or cargo on Lake Huron, shall they refer for a definition of *ship* and *cargo*, and their respective rights of *property* under them, to the laws of South Carolina or Michigan? No! But to that part of the Laws of Nations embracing "admiralty and maritime jurisdiction."

Those who claim as a *constitutional right*, the establishment of slavery in the Territories, rest it upon the *constitutional compromises*. Which of these compromises will they plead for it? The toleration of the slave trade to the Old Thirteen only till 1808, and the unlimited power of Congress to suppress it afterwards? The mutual obligations of the States to surrender fugitive slaves? The slave basis of representation and direct taxation? These are *all* the *constitutional compromises* upon slavery; and I cannot perceive where either of them touches this claim to carry slavery into the Territories! And they rest this claim on amendments IX. and X. concerning rights and powers reserved to the States or the people! But as they urge this claim as a *constitutional right*, they must not plead for it a want of *constitutional power*. If it be a right founded on *constitutional compromise*, it cannot be a right of *reserved sovereignty*; and if a right of *reserved sovereignty*, it cannot be founded on *constitutional compromise*. If a right at all, it must be founded on one or the other; for it cannot be founded on both, and

much less on either, according to the convenience of the claimants. If it be founded on reserved sovereignty, I ask what *right* each State has *reserved* over the Territories? The rights of reserved sovereignty are those of each State *within* its own jurisdiction, and not rights *beyond* it. Then as the Constitution invests the Federal Government with exclusive jurisdiction over the Territories, and makes the Common Law and the Laws of Nations the codes of that government, this power *may* forbid slavery in the Territories, and these codes, which do not recognise slavery, reign there and *do* forbid it.

A fundamental principle of all codes, national and municipal, is that no society can extend its laws beyond its own boundaries, unless by conquest or compact. Slavery is always the creature of *positive law*, and therefore confined to the society which establishes it, and necessarily cognisable by no other. Hence while South Carolina and Virginia may recognise slavery within their respective jurisdictions, neither can transfer its slavery to the other without its consent, and neither is obliged to recognise the slavery of the other. Were they independent nations, the laws of nations would protect either from any such demand of the other, though they might mutually consent to it by treaty. But as integral parts of the same nation, they are restrained from such treaties or mutual recognition by the Federal Constitution. Even the provision for the surrender of fugitive slaves is no recognition, by one State, of slavery in another; for the Federal Government alone, and not the State Governments, can legislate to enforce it. If then this claim be allowed, what are the consequences? The Federal Constitution is abolished, the reserved rights of the States are extinguished, all municipal and national identities are destroyed, and the whole world is mingled and confounded in universal anarchy. If the claimants can thus overstep the constitutional barriers, they can overcome the fundamental principles of nationality and municipality, *division* and *mutual independence;* and hence if a slave State can extend her jurisdiction over the Territories of the Union, she can extend it over every other community. Under this power, a citizen of South Carolina may carry his slaves into Pennsylvania, and convert it into a slave State! He may transfer them to England, and repeal its laws and subvert its constitution! The claim needs only a plain statement, to demonstrate its absurdity.

But the modern propagandists of slavery assert that Congress has no constitutional power to legislate on the subject of slavery. As well might they deny its constitutional power to legislate on the subject of piracy or murder! Under what authority did Congress, in 1789, adopt the ordinance of 1787? Or exempt the Georgia Western Territory from this ordinance in 1798? Or prohibit all slave trade to Louisiana in 1804? Or the foreign slave trade to the whole Union in 1808? And they assert that Congress has never created slavery by legislation! And the inference to which they here point is that, if Congress cannot *create*, *therefore* it cannot *forbid* slavery in the Territories. The doctrine is both compendious and comprehensive enough for the establishment of slavery in all new Territories! But under what authority did Congress exempt Tennessee, Mississippi, Alabama, Louisiana, while Territories, from the ordinance of 1787? Under what authority did it make the Missouri Compromise? And what less than Congressional legislation to create slavery by implication, do the propagandists now demand, in urging the extension of that compromise over all territory that may be acquired from Mexico?

Whence proceed these demands? While preferred by all the Slave

States, even by the new, which have no reserved sovereignty upon any subject, and which derive all their rights over the slavery from Congressional Compact, they are most pertinaciously urged by the two States which, in the Federal Convention, under threats of separation and foreign alliance, demanded perpetuity in the slave trade! They are urged most strenuously by South Carolina and Georgia. Let us remember that, solely through the national independence achieved by the Revolution, were these two States enabled to appear in the Convention, and co-operate with the rest in establishing a national government. Had the Thirteen States remained in colonial vassalage in 1787, South Carolina and Georgia would have had no power to prescribe terms for slavery, or anything else. And had these two States remained in such vassalage in 1836, their slaves would have been emancipated by the parent country without asking *their* consent, and with or without compensation, at that parent's discretion. Were they indebted to the other Colonies as well as to themselves, for that emancipation from political bondage which saved them from such contingencies? Presenting, in the Convention, the alternative of separation or unlimited and perpetual license in the slave trade, and indebted for this power to the success of the Revolution, they ought to have been able to show, either that, without their efforts the Revolution would have failed, or that, their efforts were equal to those of all or any of the other Colonies. On this point, what says history? The whole number of regular troops furnished to the Continental armies during the Revolution, was 261,014.

Of these the four New England States furnished . .	147,441
The three Middle States, New York, New Jersey and Pennsylvania, furnished	56,576
The six Southern States, Delaware, Maryland, Virginia, the two Carolinas and Georgia, ...	56,997
Of those furnished by New England, Massachusetts supplied	68,000!!!*

As a son of Massachusetts, aye! and of that "Cradle of Liberty," Boston, and a descendant of *him*† who led the Pilgrims to victory at Mount Hope, I never feel *so* proud, as when beholding that Revolutionary muster roll! Sixty-eight Thousand! "Massachusetts! there she stands! Look at her!" With Sixty-eight Thousand Revolutionary heroes, "she needs no eulogy!"‡

Of those furnished by New England, Connecticut supplied	31,393
Of those furnished by the Southern States, South Carolina supplied	3,872!!
And Georgia	2,797!!

In 1790, the free white population of all New England was	995,927
That of the three Middle States, was	922,148
That of the Six Southern States, of which Kentucky and Tennessee were parts during the Revolution, was	1,388,837

* 67,907.

† Col. Church.

‡ See Mr. Webster's magnificent, annihilating reply to Col. Haynes in the Senate, in 1830.

Assuming that the population of the three sections bore the same proportion to each other during the Revolution, as in 1790, we find that New England, with a population less than that of the Southern States by 392,910 furnished more troops than those States by 90,144; and that all the Free States, with a population exceeding that of the Southern by only 529,238, furnished more troops than the Southern by 147,015.

New Hampshire, with a free white population just equal to that of South Carolina, furnished 25,000 troops; more than the latter by 21,000. Little Rhode Island, with a free white population exceeding that of Georgia by only 15,000, furnished 10,000 troops, more than the latter by 7,000.

The proportion of troops to population was, in New England, ... 1 to 7
In the three Middle States, ... 1 to $16\frac{1}{2}$
In the six Southern States, ... 1 to 24
In Massachusetts, ... 1 to 7
In Connecticut, ... 1 to $7\frac{1}{3}$
In Pennsylvania, ... 1 to 15
In Virginia, ... 1 to 22
In Georgia, ... 1 to 20
In South Carolina, ... 1 to 37

As New England furnished 147,000 troops, the Southern States, in the same proportion of troops to population, should have furnished 205,000; *more* than they did supply by 148,000! As all the Free States furnished 204,000 troops, the Southern, in the same proportion, should have furnished 147,000; *more* than they did supply by 90,000!

As Connecticut, with a free white population of 236,000, furnished 31,400 troops, South Carolina and Georgia should have furnished 26,000; *more* than they did supply by about 19,500! As the Southern States furnished 57,000, New England, in the same proportion, should have furnished only 40,000, *less* than it did by 107,000! And in the same proportion, all the Free States should have furnished only 78,000; *less* than they did by 126,000! As South Carolina furnished 3,872, Massachusetts should have furnished only 10,000; *less* than it did by 58,000! As Georgia furnished only 2,697, Connecticut should have furnished only 12,000; *less* than it did by 19,400! As Virginia furnished about 21,000, New Hampshire should have furnished only 5,500; *less* than it did by 19,500! In the proportion of Virginia, Massachusetts should have furnished 14,600; *less* than it did by 53,400! In the proportion of Massachusetts, Virginia should have furnished 98,000: *more* than it did by 77,000!

In whatever proportion we compare the Free and Slave States in the military efforts of the Revolution, we shall find that, if the Slave States discharged the whole of their duty, the Middle States exceeded, and the New England States far exceeded theirs; and that, if the Free States did no more than their duty, the Slave States were delinquent in theirs, far behind the Middle States, and very far behind New England.

With such facts before them, had South Carolina and Georgia a moral right to offer, for months successively, in the Federal Convention, the alternative of interminable license in the slave trade, or separation and foreign alliance? Or had Georgia a moral right, in ceding its Western Territory to the Union in 1798, to insist on closing it against the ordinance of 1787, and thus dooming it to all the curses of slavery? Or had the Slave States, in 1804, a moral right to close Louisiana against this ordinance, thus dooming it to the same mischief? Or when Missouri was admitted, to inflict the same blight upon that State, and to extend it over all the territory south of lat. 36° 30'? Or when Florida was annexed in 1820, to consign it to the same curse? We hear much about the "Chivalry of the South;" I would not undervalue Southern effort in the days that

tried men's bodies as well as souls: or refuse a tribute of grateful respect, of patriotic reverence, to the memories of Sumpter and Marion and their gallant companions. But while South Carolina and Georgia were making their comparatively feeble efforts in the cause of national emancipation, where were the chivalry of the North, the Middle, the Free States? Pouring out their blood like water upon the heights of Charlestown! Leaving their bones to bleach upon the plains of Long Island! Rearing their victorious banners upon the fields of Bennington and Saratoga! Dyeing the snows with the blood of their bare feet, in their wintry march to victory at Trenton and Princeton! Slowly sinking under tortures which British cruelty alone could inflict, and with constancy which British cruelty could not subdue, yielding their last breath in prayers for their country, amid the horrors of the Sugar House in New York and the Prison Ship at the Wallabout! And as the glorious consummation of all their daring and suffering and sacrifice for National Independence, tearing down and banishing for ever from their shores, the flag of their proud oppressors at Yorktown! Was there no chivalry in New England, sending forth one in seven of its people to do battle in the holy cause of national independence? Or in the Middle States, sending forth one in sixteen to the same glorious service? Let the whole Slave States, sending fourth one in twenty-four, or Virginia, sending forth one in twenty-two, or South Carolina, sending forth one in thirty-seven, and also sending forth *against* this sacred cause *twenty* Tories for every *one* found in New England, answer the question! Such was *Northern* Chivalry! Such were its daring and its constancy, its deeds and its sufferings! And when Southern chivalry makes unconscionable demands, let Northern chivalry show, in justification of its uncompromising resistance, the testimonials of its efforts in the cause of national independence, bearing the names of 201,000 Revolutionary heroes. If Revolutionary witnesses be estimated by numbers, these 201,000 are an all-sufficient host against the 57,000 of the Slave States!

The modern propagandists will say that the Slave States could not spare more to the Continental armies, because their men were confined at home, to restrain the slaves from rebellion; and they will say that the British Government, after filling the country with slaves to promote their trading policy, offered emancipation to all who would join their armies against the Colonists. This sustains the objections against slavery urged by Madison and Mason, and the other great lights of Virginia, in the Federal and their State Conventions. If the military population of the Slave States were prevented from equal exertion with the Free, against the common foreign enemy, through fear of insurrection among enemies in their own household, then the *Revolution* was far less *their* work than that of the Free States; then, without the efforts of the Free States, the yoke of Colonial bondage had never been broken. With this essential element of weakness, had South Carolina and Georgia a moral right to dictate laws to the Convention? or the Slave States to insist on the extension of slavery in 1789? in 1798? in 1801? in 1820?

The propagandists will say that the battles of the Revolution were fought on Southern soil, by the Southern militia, who had no cause for turning out till the enemy came among them, and then turned out collectively. Without referring to the alacrity, the valor, the efficiency of the Northern militia, when the North was the theatre of contest, I reply that, while 10,000 militia were furnished by the Slave States, 29,000 were furnished by New England alone. But had the Slave States supplied the regular army as abundantly as the Free, would the enemy have reached their soil? Would the contest have endured for seven years? Would it have drawn so copiously, so sadly, upon the best blood of the country? Had the Slave States furnished the 90,000 more troops that would have placed them on equality with all the Free States, as gallant as the 57,000 which they did furnish, would not the contest have terminated sooner? And if so, had they furnished the 148,000 more which would have placed them on an equality with New England, might not British power have been crushed, almost at the commencement of the contest? If new England had done no more than the Slave States, in proportion to population, its supply of troops would have been diminished by 107,000; and the same proportionate equality of effort between the Slave and all the Free States, would have diminished the supply of the latter by 126,000. As the holy cause was contested for seven years, and required the aid of a gallant and chivalrous ally, and the occasional and equally gallant efforts of the militia from all the States, in addition to 261,000 regular Continental champions, what would have been its fate, had these regular Continental champions been only 154,000, or 135,000, instead of 261,000? That cause could not have spared 107,000, much less 126,000, from the gallant spirits who sustained it through seven doubtful years, to its glorious termination. Yet it must have spared them, had New England alone, or all the Free States, sent forth to fight its battles no greater

proportion of their brave sons, than the "Chivalry of the South." In view of these facts, the positions assumed by South Carolina and Georgia in the Convention, and by all the Slave States ever since, are hardly consistent with justice. As they should have remembered then and afterwards, so should they remember *now*, that, to the blood of the Free States, far more than to their own, are they indebted for the high privileges of national independence and self-government. Yet *now*, even *now*, does South Carolina, with her Revolutionary muster roll of 3000 men, make unconscionable demands upon the Free States, to whose 204,000 Revolutionary heroes is she indebted for redemption from Colonial bondage. Aye! and for her present privilege, which she uses with no stinting parsimony, no grudging economy, of being politically arrogant and exacting with impunity! Will the Free States longer yield to these demands, and extend and perpetuate a mischief which made Jefferson tremble for the justice of Heaven on his country? If appeals to their chivalry be vain, let them not be deaf to the warning voice of Justice, or the imploring cries of Humanity.

The modern propagandists, not only preaching false doctrines, but misrepresenting historical facts, now say what they would not have said in the presidency of Jefferson, that the Ordinance of 1787 was "an interpolation in the Democratic creed." If by the *Democratic creed* they mean the universal promptings of human instinct, the inductions of common sense, and the declarations through Moses and the Prophets and the Saviour, all proclaiming that personal liberty is a natural, congenial, inalienable right, and repeated in the Declaration of Independence, saying that all men are created equal, how can they stigmatize an act in obedience to all their united voices, against slavery, as an interpolation upon the Democratic creed? If the Democratic creed came from God, and it does so according to my reading of both Nature and Revelation, a human provision in defence of natural rights is no interpolation. Do they mean the creed of that political association called the Democratic party? But this association was not known till after the ordinance of 1787 was unanimously adopted by the Continental Congress, and re-enacted by the first Congress in 1789. The Revolution exhibited no *Democracy*, no *Federalism*, as partisan designations. The Colonists knew *Democracy* in the natural rights proclaimed in the Declaration of Independence, and in the conventional rights inherited from their fatherland. And they knew *Federalism* in their union and confederation against oppression, and for national independence. They called themselves "Whigs" and "Sons of Liberty," and not "Democrats" or "Federalists." The partisan distinction between "Democrats" and "Federalists" first appeared in the State Conventions to which was submitted the Federal Constitution; the "Democrats," foremost among whom was Rhode Island, and forward among whom was Massachusetts, opposing the Constitution because it extinguished too much of State rights; and the Federalists, foremost among whom was Georgia, and forward among whom was South Carolina, defending it because it was better for *themselves*, than any other constitution within their reach. In Georgia, which adopted the Constitution unanimously, and South Carolina, which gave a vote of 184 against 38, a *majority* of 73 in a convention of 222 delegates, a principal argument in its favor was the toleration of the Slave trade for twenty years, after they had failed in attempting to render it perpetual. In Virginia, which gave a majority of 10 only in a Convention of 168, and therefore belonged to the "Democratic" party in the State Conventions, a principal argument against the Constitution was this temporary toleration of the slave trade. Nobody, at this day, will doubt the "Democracy" of Jefferson, the High Priest, the Primate, the very Sovereign Pontiff of his political church; or of Madison, who, like Samuel in the Temple, was an early minister at its altars. If their well known opposition to slavery were inconsistent with the "Democratic creed," out of their own mouths are they condemned. Then as the "Democratic party" was not born when the ordinance of 1787 was adopted, it can be no interpolation upon that party's creed. And if the ordinance be inconsistent with that creed, the censure is due to Jefferson, Madison, Mason, Randolph, Pendleton and others, the Grand Council, Sanhedrim, Synod, consistory or consociation of "Democrats" by whom that creed was compiled and promulgated. And South Carolina and Georgia profess to be partizans of "*State rights*," and censure Rhode Island and Massachusetts as partizans of "*consolidation*." If sustentation of "State rights" be an article of the "Democratic creed," the records of the State Conventions show that the Constitution was opposed by Massachusetts and Rhode Island, because it invaded State rights and tended to consolidation, and was supported by South Carolina and Georgia, because it committed the consolidative power of the Federal Government to the sustentation of their "peculiar institution," their traffic in human rights. When, in the face of such facts, the propagandists pronounce the ordinance of 1787 an "interpolation upon the Democratic creed," they exhibit profound ignorance of the "Thirty-nine Articles" of that creed, and seem scarcely to have reached its

"Shorter Catechism." As well might they pronounce Leviticus an interpolation upon the Saybrook Platform, or Magna Charta an infraction of the Federal Constitution!

Having thus far considered slavery from the commencement of the Revolution to the present day, I will briefly consider it in connexion with the future. To provide for that future wisely, we must carefully study the past: and if, in the history of that past, we find a mighty mischief growing from a small beginning, till it threatens to overwhelm the fabric of the Revolution, we must either leave that fabric to its fate, or leave no effort untried to arrest the mischief. If the citizens of the Slave States may carry their slaves, as property, into the Territories, slavery may be extended over all the remaining Territories of the Union, and all that may yet be acquired. The present Territories are Nebraska, Minisota, Missouri, New Mexico, Oregon, and California, the whole including an area equal to that of the thirty present States. Here, then, is Territory enough for thirty new States: and if only one-half of it can sustain a slave, or any population, though three-fourths of it are equal, in resources, to any three-fourths of the present States, and every new State in it be delivered to slavery, what will hereafter be the proportion of Slave and free States in the Federal Government? Twenty-nine to sixteen! Then they will stand in the Senate as fifty-eight to thirty-two! And if the fifteen new States be half as populous in proportion to territory, as the thirty Old, and the present ratio of representation be used as a basis of calculation, the relative strength of the Slave and Free States in the House of Representatives, will be as two hundred and four to one hundred and thirty-eight! Upon the most favorable calculation for the Free States, the Slave States will have in each House of Congress *a working majority at least!*

The propagandists will say that all territory north of lat. 36.30 is exempted from slavery by the Missouri compromise. But if they can carry slaves into the Territories under a *constitutional right*, this compromise is unconstitutional and virtually repealed. And they say that the present territory north of this line will not sustain a slave population. While the southern boundary of Missouri is lat. 36.30; its northern is lat. 40.30, a line including two-thirds of New Jersey, one-half of Pennsylvania, Ohio, Indiana, and Illinois, one-third of Nebraska, and nearly all New Mexico and Upper California. And these five Free States, the two first of which once held slaves, and the three last of which would now have been Slave States, had they not been rescued from the calamity by that "interpolation upon the Democratic creed," the ordinance of 1787, could physically support a slave population for two centuries henceforward. The slaves of Missouri, 3000 in 1810, 10,000 in 1820, 25,000 in 1830, 58,000 in 1840, will probably exceed 135,000 in 1850. Then if Missouri will support a slave population, why will not Nebraska, directly west of Missouri and Arkansas, and watered by the Missouri, the Platte, the Kansas, and their large tributaries? And if Oregon may be opened to slavery, a point for which the propagandists contend, why may not New Mexico and California? They tell us that only a small portion of New Mexico and California will sustain slavery. If the whole of Mexico, excepting a narrow strip on the north, be south of lat. 39.45, or "Mason's and Dixon's line," the northern boundary of slavery in the Old States, why may it not support a slave population as well as Delaware, Maryland Virginia, and Kentucky? These four States, presenting, like Mexico, a surface of mountains and valleys, contained, in 1840, 724,000 slaves. Then if nearly all Mexico be south of "Mason's and Dixon's Line," the northern boundary of slavery in the Old States, and even south of lat. 36.30, the southern boundary of Missouri, and the northern boundary of slavery under the Missouri compromise, and the most fertile half of it be south of Georgia, Alabama, Mississippi, and Louisiana, why can it not maintain a slave population as well as any State of our Union? Upon the authority of one who has resided in Mexico in a diplomatic capacity, professes to understand it thoroughly, and has "written a book about it," the propagandists say that the introduction of slavery into Mexico is impossible. It did once exist there, and would probably have existed there now, as in Cuba and Porto Rico, had it remained a Spanish colony. And while they pronounce slavery an impossibility in Mexico, they say that certain productions peculiar to warm climates, as cotton, sugar, rice, and indigo, can be cultivated on American soil only by negro slavery. But the whole coast of Mexico, Atlantic and Pacific, produces everything which, according to the political economy of South Carolina, requires a high temperature and slave labor; and its high plains and fertile valleys produce coffee and the orange, which require, like the sugar-cane, entire exemption from frost. Will they tell us that alluvial regions only will support slavery? The two coasts of Mexico and extensive regions along its great rivers, are alluvial. And if alluvial soil is necessary to slavery, how is it supported in the middle regions of Maryland, Virginia, the Carolinas, Georgia, Alabama, Tennessee, Kentucky? If even the alluvial regions of Maryland and

Virginia, abounding in slaves, cannot produce cotton, sugar, coffee, or indigo, while the uplands of Mexico, above even the level of the Blue Ridge, produce every one of them abundantly, why cannot Mexico sustain slave labor? And if Cuba, rising abruptly in lofty peaks, without an acre of alluvial soil, and further north than one-half of Mexico, is cultivated almost exclusively by slave labor, why cannot slavery be sustained in Mexico? They know better than these denials indicate, and *now* fabricate this species of "public opinion," for the purpose of dooming every square mile of Mexico to slavery, as fast as it shall be acquired as territory. At the commencement of the Mexican war, the fertility of New Mexico was boundless, California was an El Dorado, and all Mexico a paradise, inviting Anglo-American enterprise to redeem it from Creole anarchy and Aboriginal imbecility. But the "Wilmot Proviso" came, and like an enchanter of Spanish or a magician of Arabian romance, has suddenly transformed this paradise into a desert, where no spring gushes, no brook meanders, no flower blooms, no bird sings, and where no slave can toil in hopeless bondage! But taking their present statements, conjured into utterance by the wand of Mr. Wilmot, so totally variant from those current before that wand was flourished, and admitting that slavery cannot exist in any present territory north of lat 36.30, or in any that may be acquired from Mexico, whence, I ask, comes all this excitement about "Wilmot Provisos" and "constitutional rights?" If slavery cannot travel beyond Southern Nebraska, large enough only for two slave States, are the slaveholders wise in being frightened from their propriety by the "Wilmot Proviso," and in threatening to "go the death" for their "peculiar institution," as if it were the "Sugar" of the Nullifiers? The present balance cannot endure long, if the supply of Slave States is exhausted in two from Nebraska, while a dozen Free States are growing in the fertile territories north of lat. 36.30 and in Oregon. Why, then, do they threaten to quarrel for the extension of slavery over regions where, according to their own statements, it cannot exist? Do they see the sceptre departing from Judah? And would they arrest it by extending slavery over all present territory, and by carrying it to Mexico?

The propagandists pronounce the "Wilmot Proviso" a mischievous abstraction. If it be an abstraction, where is the mischief, if its application to present or new territory can produce no change in their social or political relations? But if it be a mere abstraction, totally inoperative in application, it involves a principle which every professing republican must hold sacred, or confess an enormous inconsistency. As an abstraction, it is an oath of allegiance to the holy cause of human rights, human equality; to those rights proclaimed as Revelation in the New Testament, and as the axiom of all just government in the Declaration of Independence. In proposing this abstraction, the Free States ask not their Southern brethren to disturb their present social relations; to emancipate their bondmen. They merely ask them, as a boon to humanity, as obedience to the injunctions of *Him* whom both North and South acknowledge, whether He speak through Moses or the Saviour, as fidelity to the principles of the Revolution and the Federal Constitution, to stay the plague of slavery from afflicting new regions. And in reply, their Southern brethren ask *them* to contravene the principles of the Declaration of Independence and the Federal Constitution, to trample upon the highest interests of human nature, to violate the commands of God, to make all their professions of liberty and equality and philanthropy a mockery and a lie, and employ the sword of *Freedom* in hewing down the *Rights of Man!* In this contest for abstractions, the men of the Free States, if true to duty, will say that, before another acre of land shall be surrendered to slavery, their blood shall flow like water!

The propagandists say that, the extension of slavery to new territory will soon remove it from Maryland, Virginia, Kentucky, and Missouri. The slaves of these States were 590,000 in 1810, 670,000 in 1820, 762,000 in 1830, and 775,000 in 1840; the increase being 185,000 in 30 years, during which they were open to the *drains* of Georgia and the New States. When, according to this ratio, will slavery be extirpated from the Old States? Each New Slave State or Territory gives to slavery a longer lease of life in each Old State. I know that Slavery, in conflict with immutable physical and moral laws, contains the seeds of its own dissolution, ruining every land which it cultivates, and finally extinguishing itself. It was near its appointed end in Jamaica, and must soon have been extinguished in emancipation or blood. The slaves of Jamaica would have finally exterminated their owners, and then amid their mountain fastnesses, have defied the power of the British empire The Maroons, or insurgent Negroes of Jamaica, were once a formidable foe to British power, and the insurgent Negroes of Hispaniola successfully resisted the far greater military power of France. But these are islands, where slavery could not be prolonged by extension to contiguous regions; and when slavery is thus confined, its evil forces must eventually explode,

because they cannot be drained through the safety-valve of extension. Had the ordinance of 1787 been applied to Tennessee, the Georgia Western Territory, Louisiana, Florida, the colored population, accumulating in Delaware, Maryland, Virginia, the Carolinas, Kentucky, would have imposed upon those States a necessity of seeking a drain in African colonization, and by this time would have brought slavery near extinction in the United States. But the creation of new markets in the Territories established in Delaware, Maryland, and Virginia, the iniquities and horrors of slave-breeding, and has converted the sons of those noble Revolutionary sires who set their faces and raised their voices against slavery, into dealers in human flesh, gorged with the wages of sin. Of all the evils which the God of Justice has stamped upon slavery, in retribution of His violated laws, slave-breeding is the most awful! It traffics in the holiest of relations! It makes merchandise of all the instincts through which God fits men for society and moral government! It stifles all the faculties through which man can aspire to Heaven, in the blind instincts of the brute, with nothing to love, nothing to fear, nothing to hope! To find on earth the veriest type of *Hell*, we must seek the pastures and the stalls of the slave-breeder! Yet awful as are its iniquities, it is fated to overrun every present slave State of this Union, so long as it can find new Territory to feed upon. At the close of the Revolution, Maryland had begun to decline under the evils of slave cultivation. Large tracts of its once fertile lands had been long before exhausted and abandoned, and were then recovering their natural fertility under the natural process of spontaneous production and decay. Enterprise from the Northern and Middle States then sought these abandoned lands, and made them prosper under free labor; and new Territory being opened to slavery, many slaveholders emigrated to them with their *property*, while others, more sagacious, seeing the result of free labor directly before them, sold their slaves to the South, and placed their lands under this better system. Thus has the population of Maryland been continually changing, by the relative increase of the white over the colored, and of the Northern and Middle over the Southern stock. Its free population was 217,000 in 1790, 235,000 in 1800, 269,000 in 1810, 300,000 in 1820, 335,000 in 1830, and 380,000 in 1840; and its slave population was 103,000 in 1790, 106,000 in 1800, 111,000 in 1810, 107,000 in 1820, 102,000 in 1830, and only 90,000 in 1840. This shows an increase in free population, of 19,000 in the first period, 33,000 in the second, 31,000 in the third, 35,000 in the fourth, and 45,000 in the fifth; and of slave population, an increase of only 3000 in the first period, of only 5000 in the second period, and a *decrease* of 4000 in the third, 9000 in the fourth, and 12,000 in the fifth period. Thus while the free population has continually increased during fifty years, the slave population slightly increased during twenty, and declined during thirty years of the same period; and while the amount of *increase* in the free population was greater, so was the amount of *decrease* in the slave population, in each ten years of the fifty. These facts show that Maryland, since 1790, has been under the progress of renovation by the immigration of whites and emigration of slaves, and the substitution of free for slave labor; and as this substitution has been chiefly upon lands previously exhausted by slavery, they show that Maryland, having reached its culminating point of prosperity under slavery, had begun to decline under it, and is now recovering under its gradual removal. Hence the course of slavery on a continent, where it can expand, and after it has exhausted one region, can be transferred to another, is first to redeem a wilderness, then to exhaust the region redeemed, then to seek new regions, leaving the abandoned to free labor. But is not this an argument for slavery? No. In the Free States we have witnessed no culminating point of temporary prosperity, no commencement of decline, no exhaustion of soil, no succession of one set of proprietors by another more enterprising and sagacious, no substitution of improving for exhausting labor, no commencement of recovery after exhaustion. They have continually advanced in population and every species of improvement. In 1790, Maine contained 96,000 free inhabitants, less than Maryland by 121,000. In 1840, Maine contained 502,000, more than Maryland by 152,000. In 1790, New York contained 319,000 free persons, less than Virginia by 226,000. In 1840, New York contained 2,429,000, more than Virginia by 1,678,000; the excess of New York far exceeding the whole population of Virginia. In 1790, Pennsylvania contained 141,000 free persons, more than South Carolina by 292,000. In 1840, it had more than South Carolina by 1,157,000. In 1800, Tennessee, settled earlier than Ohio, had more free persons than the latter by 17,000. In 1840, Ohio had more than Tennessee by 873,000; the excess of Ohio far exceeding the whole population of Tennessee. These statistics abundantly show the comparative merits of freedom and slavery; and they prove that Maryland, without it, would have escaped its exhausting influences, to be renovated by freedom; would have advanced continually, and now have been far in advance of its present condition. But without the drain of new Territory, the slave popula-

tion of Maryland would have been far more numerous now, than in 1810, its period of greatest number. Yes. But without such drain on the continent, the slave holders, long since overburdened with a population that was eating out their substance, would have sought a drain abroad, and thus have extinguished their own slavery, instead of transferring its increase to other regions, and keeping most of the original stock for the abominations of slave-breeding. Slavery in Maryland having become unprofitable in agriculture, most of its profits are now derived from slave-breeding; and while new regions offer a market, this abomination will be maintained, perhaps for another century, though Maryland will eventually become a free State, through the renovating process already described. The same renovating process has begun in Virginia, its slaves in 1840 being less than in 1830, by 22,000. And it will proceed in each Old State, till it is liberated from slavery. But as the process begins only when slave labor ceases to be profitable, and as after its commencement, slavery is still maintained for the profits of slave-breeding, the opening of each new Territory to slavery, prolongs its life in each Old State, and gives it a term of life from infancy to old age in each new. Delaware, Maryland, Virginia, Kentucky, North Carolina, are the present breeding States. But before they cease to be so, slave-breeding will begin in South Carolina, Georgia, Tennessee, Missouri. And thus so long as new Territories be opened to slavery, will each Slave State pass through these transitions of slave-cultivation with profit, slave-cultivation without profit, slave-breeding, and extinction of slavery, till the institution reaches the Isthmus of Panama. And *then* it will end in unconditional emancipation, or foreign colonization.

What then is the value of the propagandist argument, that, opening new Territories to slavery will extirpate it from Maryland, Virginia, Kentucky, or other old States? Under this process, each of them becomes a Free State by the creation of three or four Slave States, while its own deliverance is delayed by the slave breeding caused by the new creation; the grand results being the prolongation of slavery in old States, and its establishment in new. Wherever it is newly born, it must live through its natural life, while the new birth infuses new vigor into its decaying members in old regions. It seems like some species of polypus described by naturalists, from which any number of pieces may be cut and transplanted, while the youth of the parent stock is renewed by the excision. A shorter, safer, surer mode of destroying it, is fencing it round with an impassable wall, excepting an outlet for foreign and free colonization. Some will say that African colonization is a delusion; scarcely 20,000 colored persons having been deported in 30 years. But how numerous was the English population of Massachusetts, in 30 years from the landing at Plymouth? Or of Virginia after the same lapse from the landing at Jamestown? And what appears *now* from these poor beginnings? The colonists have conquered the greatest difficulty in making a settlement; and that settlement would soon become a mighty community, to civilize the *Continent* of Africa, if the Slave States, becoming intolerably burdened with slavery for want of drains at home, should be compelled to seek them abroad. An easy and speedy remedy for slavery would be found in a vigorous prosecution of foreign colonization, and the closing of all domestic drains will force the Slave States to this vigorous prosecution.

But these are not all the evils flowing from the extension of slavery. Under the Constitution, the militia of all the States may be called out to suppress insurrections; and against a formidable insurrection of slaves, the citizens of the Free States are not only bound to aid their Southern brethren, but would aid them with alacrity. But if some dozen or twenty Slave States be added to the Union, the probabilities of insurrection would augment, and the burden upon the Free States would augment in proportion. And with the extension increases the danger of collision between the Free and Slave States. If the Slave States become numerous enough to control the Federal Government, the Free States may expect very stringent acts of Congress for the re-capture of fugitive slaves. As color is no defence against such claims, for even whites, born in Germany, without one drop of African blood, have been sold and held to slavery in Louisiana, and have claimed emancipation before its Courts, what may one day prevent slave-holders from entering any Free State with their witnesses, and establishing a claim to the white children of its citizens, before a mere Federal justice of the peace, or deputy post-master, appointed by some slave-holding President? We have already seen the constitutional sovereignty of the Union invaded, and its maritime laws trampled upon, by some of the States, in the impressment and imprisonment, because they were Africans, of persons sailing under the sanctity of the American flag, and owning the immunities of citizenship in other States. And with the extension of slavery increases the danger of collision with other nations. The Slave States have not only attempted to involve the Federal Government in controversies with foreign governments about fugitive slaves, but during a late Presidency, a Secretary of State, in an official dispatch to an American Minister abroad, attempted to commit the

United States as the champion of slavery, against Britain as the champion of emancipation. During the same Presidency, a Secretary proposed an enormous increase of the navy during peace; an augmentation attended with onerous taxation, and ultimately designed for a defence of slavery against Britain as the advocate of emancipation. I attach little importance to the usual suggestions of partizans about *executive patronage*. But as the policy of the Slave States has long aimed at a monopoly of this patronage in all departments of the Federal Government, especially the military, I need no gift of prophecy to foresee how, and for what purposes, with large slave-holding majorities in Congress, this patronage would be used. Southern politicians say that slavery, a mere domestic institution, is no affair of the Free States, and that *their* interference with it, of whatever character, for whatever purpose, is inexcusable. But if, through the augmentation of Slave States, slavery becomes a national interest, and the Federal Government its champion, and the people be burdened with an enormous Southern navy to defend slave coasts and seek quarrels for employment, especially against all advocates of emancipation, it will become the *affair* of the Free States under rather imperative circumstances, and their *interference* will have some apology.

But an evil far more grievous to the Free States, which makes slavery *their affair* still more seriously, remains to be mentioned. The propagandists say that, if slaves cannot be carried to the Territories as *property*, their owners are virtually excluded from all share in the national domain. But if slaves *can* be carried to the Territories as *property*, how complete is the exclusion of the Free States! The chief source of the progress, the civilization, the prosperity, the security of the Free States, is found in the subdivision of land. The yeomanry of New England, of the Middle and Northwestern States, each owning his freehold of moderate extent, are a class who can never be enslaved, and will never submit to any other rule than democratic republicanism. And this subdivision of land is the chief source of liberty in Holland, in Belgium, in Switzerland, and offers the best guarantee for the security of republicanism in France. All European history proves that liberty is safe under extensive subdivision of land among owners, and cannot exist among landed aristocracies. Where shall we find the main pillar of despotism in Russia? Where the explanation of Poland's fall? Of Ireland's misery. In landed aristocracy. What has wrought the debt, the poverty, the misrule of England? Landed aristocracy. What, immediately after the general peace of 1815, opened the door to those reformations in Prussia which have ended in the recent revolution? The liberation of land from aristocracy. What was one of the first reformations accomplished by the recent revolution in Austria? Preparation for the destruction of landed aristocracy. The history of Europe for more than twenty-five hundred years, is a history of miseries, social and political, flowing from landed aristocracy. But slavery and landed aristocracy are co-relative terms; for landed aristocracy inevitably produces virtual slavery, and slavery cannot exist without landed aristocracy. The Slave States are regions of landed aristocarcy; and if their colored population could be removed, and laws should promote the accumulation of land, the end would be the slavery of the white majority, as among the pauper tenantry of Ireland, or the serfs of Russia and Russian Poland. How is land divided in the Slave States? Not as in the Free, in farms of hundreds of acres or less, owned by the holders of the plough and the sickle; but in plantations of thousands and tens of thousands of acres, tilled by those who do not own themselves. Who apply to the land offices in Slave States and Territories? The rich, monopolizing their thousands and tens of thousands of acres. And who throng the land offices of the Free States and Territories? The poor, the men of moderate means, whose capital is their talent, their enterprise, their industry, their integrity, their aspiration, and who buy their sections, and half and quarter sections. Then if the doors of a territory be opened to slavery, they are virtually closed against the hardy sons of the Free States, seeking, with their scanty means, the independence found on a small farm. And they are virtually closed against the toil-worn sons of Europe, flying from the degradation of feudal bondage to the dignity of an American farmer. But the landed aristocracy of the slave-holders produces results yet more deplorable, in a class of free population, whose ignorance, whose debasement is scarcely conceivable by a Northern imagination, untravelled in Southern regions. The Pine Barrens and Sand Hills will explain my meaning. "In the sweat of thy face shalt thou eat bread." And when this command went forth, God stamped labor with the dignity of duty. But the slave holder stamps labor with the stigma of degradation. Will the hardy sons of the Free States, carrying abroad their talents and their aspirations, sit beside "the whip-galled slave," content to bear as their ignominy, what God had made their honor? Will they endure the brand of infamy, arrogantly imposed by the slave holder, for that honorable toil which makes the wilderness blossom as the rose, and rears every fabric of civilization? Will the sons of Europe, flying

from feudal slavery to this boasted land of equal rights, seek the fertile fields where landed aristocracy exhibits features far more revolting,and rattles chains far more galling, than the Old World has witnessed for centuries? Toil produces all the wealth of the world; and the proud sons of the Free States, the emancipated sons of Europe, will not, and should not pursue that toil which is their glory, amid associations which make it their shame. They will not go where slavery shows its polluting presence. They will not expose their children and their children's children to such deplorable contingencies. They will not say that the only choice of a freeman in a Slave State, shall be landed monopoly, or landless degradation. If then, the extension of slavery to a new Territory virtually closes its doors upon the children of the Free States and of Europe, have the Free States no interest in the question? And if the Territories be the common property of the Union, shall less than six millions close them against more than twelve millions of the same Union, and against continually augmenting legions from Europe? But while slavery closes a Territory against immigration from the Free States and Europe, the interdiction of slavery *does not* close it against immigration from the Slave States The citizens of the Free States will not dwell with it, and the citizens of the Slave States can do better without it. Then on which side of the question is justice?

Yet in the face of all these *facts*, and *probabilities*, almost *certainties*, do "Northern men with Southern principles," men to whom the witty and eccentric John Randolph might have ascribed a list of "seven principles, five loaves and two fishes," who say to themselves,

> "Men must now learn with pity to dispense;
> For policy sits above conscience;"

intent on some ephemeral scheme of personal aggrandizement, tell the Free States that, yielding to the demands of the South for the extension of slavery, is not only due to the "compromises of the Constitution," but will be harmless, nugatory in practice! If such men *do not* see the shallowness of such pretensions, and yet prize a decent reputation with posterity, I say to each of them,

> "———————————— get thee glass eyes;
> And like a scurvy politician, *seem*
> To see the things thou dost not."

Are the Free States satisfied with this prospect? Will they surrender themselves to *all* the conditions, *all* the policy, which the entire preponderance of the Slave States would impose upon them? Let the history of the *past* furnish an answer! But will the Free States, by arresting the march of slavery, dissolve this glorious Union, and convert its two fragments into implacable enemies? NEVER! Our Southern brethren are quite too sagacious, too enlightened upon their interests, too conscious of their comparative weakness, to tempt the fate to which separation would infallibly impel them. Slavery never yet failed to drag an empire down to ruin, and never will; and our Southern brethren understand this too well to quit, for its sake, the fraternal protection of the Free States. I will not depict the horrors of the strife that would inevitably follow the dissolution of this fraternal Union into hostile fragments. Let me merely proclaim, with prophetic voice, the extinction of slavery in blood, and of Southern nationality in conquest or unqualified submission! Should this awful step be taken *now*, what would be the relative strength of the parties? The Free States and Territories now contain twelve millions of whites, and the Slave States and Territories about five millions and a half of whites, and three millions of slaves. I institute no comparison between the Free and Slave States in military qualifications. The American is a brave soldier everywhere, and the heroism of North, South, East, West, is brilliantly inscribed on every page of American military history. But when less than six millions meet twelve millions of a kindred race in mortal strife, as enemies from abroad, and three millions of another race as enemies at home, the latter with a long account of wrongs to settle, what are the chances of the minority? Fifteen against six! Two and a half against one! I will leave the most dauntless hero of the South, and no land is more fertile in heroism, to solve the problem!

And even if each fragment of the severed Confederacy should maintain its nationality, can we be blind to the incidents of this condition? If we can, *History* addresses us in vain, and we are still in political darkness, with the light of fourteen centuries flashing in our path. Following Europe, from the dissolution of the Roman Empire in the middle of the Fifth Century, down to the general peace in 1816, we find a continual succession of military despotisms, and of wars for the acquisition of territory. Ever since the dissolution of the Roman Empire into contiguous nations, each has been compelled to raise a military barrier against its neighbors, and to endure the consequences in military monarchies, feudal or standing armies, the poverty and degradation of the masses, lawless aggressions, and

bloody, desolating, demoralizing wars. And not only has every European nation endured these burdens during fourteen centuries, but each of them, during the same period, has maintained a barrier of commercial restraints, interposing numerous and vexatious obstacles to all intercourse between its subjects and the rest of the world. How far could an American, even in the middle of this Nineteenth Century, before the recent revolutions, travel over Continental Europe, without finding a frontier, a custom house, vexatious examinations of his effects, vexatious demands of passports or fees, and military power to enforce them? And what do all these things indicate, but that mutual jealousy, mutual fear among contiguous nations, which keep them continually armed for conflicts, continually watching against mischievous designs? Once all Southern and Western Europe had a community of language, laws, customs, and government. But when the Roman Empire fell in its rottenness, Englishmen, Frenchmen, Germans, Italians, Spaniards, Portuguese, Greeks, Turks, rose upon its ruins, to visit each other, for fourteen centuries, with mutual vexation and slaughter. With all its vices, the Roman rule was almost Paradise, in comparison with the bloody anarchy which followed its fall.

Is all this no warning to the United States? If history, as a great man of England once said, be "philosophy teaching by example," shall we close our eyes and ears against its lessons? Our Confederacy covers more than half of the continent; and every American can travel over a greater extent than all Europe, and still be *at home*. And while in every step of his progress, from the Lakes to the Gulf of Mexico, from the Atlantic to the Pacific, he sees not the semblance of a government, yet he is continually under the protection of some State government, to all of whose immunities he is constitutionally entitled, and of one overshadowing national authority. And while he proceeds among millions and millions of human beings, he encounters no Englishmen, no Frenchmen, no Germans, no Italians, no communities watching each other in mutual fear, and harassing each other with mutual rancor and ferocity. All that he meets are Americans by birth or choice, his countrymen, his compatriots! And every step of his progress is in his own country! What a glorious picture is this, in contrast with the horrors flowing from European subdivision of nationality! Shall we then, with such contrast before our eyes, close them, and rush blindly into the fires that have so long desolated the Old World? We dread standing armies as hostile to popular rights. Can national subdivision exist on the same continent without military governments and standing armies? And can military governments and standing armies be maintained without the slavery, ignorance, and degradation of the masses? For fourteen centuries, Europe has written the answer in tears and blood! Let us read the answer and beware! But this doctrine involves the accession of the Northern British Colonies, and the whole of Mexico. Be it so. Such is destiny! Without the slightest reference to the Mexican war, or to the present condition of these Colonies, I say that sooner or later, such union must come. According to natural laws, which God made and man cannot repeal, the Anglo-American race, stronger in mind and body than the feeble Indian or the degenerate Spanish Creole, will finally overrun, overpower, absorb, and extirpate the Mexican, even without force, even by physical, moral, and intellectual superiority in all the art and science of peace. And every English colony is also subject to immutable laws, which enable us to foretell its destiny as certainly as the rising of the sun. Whenever English colonists leave their fatherland, they carry abroad the high aspirations and indomitable perseverance of their race, and the Common Law, the great charter of social and political freedom. Englishmen cannot be slaves, even during their colonial dependence, and will certainly achieve nationality when able to *go alone*. And when the British North American Colonies shall reach that consummation, decreed for them in the Book of Destiny as certainly as it was decreed for THE OLD THIRTEEN, they will have the alternative of fencing against an invincible neighbor in separate nationality, or of entering the family of that neighbor, secure against the rest of the world. I leave the choice to English intelligence, looking through the European vista of fourteen centuries, and securely rely upon a choice in wisdom.

With some politicians, Northern and Southern, a favorite position is "No more territory." Do they comprehend the past? And through the past can they see the future? Or is their vision bounded by this little present? What ship is that? A frail bark, bearing a few houseless, homeless, shivering exiles to the snow-clad rock of Plymouth! Little more than two centuries ago, the savage war whoop burst upon the slumbers of this little band of adventurers, while the savage war club was raised against the leader of a little band of kindred adventurers at Jamestown. Where are those savage tribes now? Gone! for ever gone, beneath those immutable laws which give the dominion of the earth to

physical, moral, and intellectual superiority! And what traces of their sojourn in this wide wilderness of savage beasts and savage men, have been left by the poor adventurers of Plymouth and Jamestown? THE UNITED STATES OF AMERICA! That mighty nation which makes the remonning kings of Europe tremble on their tottering thrones, and shows to its war-worn, down-trodden multitudes the certainty of their emancipation from feudal bondage. No more territory! Behold the United States of America *now;* and then go back to Plymouth and Jamestown when first reached by those few scores of English adventurers; and *then* ask if anything human could have repressed the energies or restrained the triumphant march of Anglo-Saxon superiority! No more territory! Go back but a few years, and behold acquisitions far exceeding in extent, the *Old Thirteen* that established our nationality. See Florida, Louisiana, Arkansas, Missouri, Iowa, Minisota, Nebraska, Oregon, regions yet unnamed, and destined to teem with our own kindred, added to the "original States" within less than fifty years! No more territory! As well might we attempt to dam the Mississippi, to make the mad Missouri retrace its course, as to restrain the overflowing of that physical, moral and intellectual torrent, Anglo-Saxon superiority! With his axe in one hand and the Common Law in the other, the Anglo-Saxon goes forth to the certainty of dominion over all other races on this Continent, to the certainty of freedom, civilization and progress. And as soon may we expect the Ocean to *lie* still at our bidding, as the Anglo-Saxon to *stand* still under the blind theories and short-sighted resolutions of ephemeral politicians. And as his march must be onward, we have the alternative of sending the Federal Constitution with him, to bind him to us as a friend and a brother, or of letting him go forth as our rival and our enemy under separate nationality. But the Southern Statesmen are a little longer-sighted than the politicians of the Free States. If a resolution of "no more territory" pass both Houses of Congress, and be signed by a Slave holding President, how many years will elapse before a horde of adventurers from all parts of the Union will break into some Northern State of Mexico, and with or without its own white population, establish another Texas? And how soon after the independence of this new Slave State shall have been hastily acknowledged by a slave holding President, will it knock at the doors of the Union for admission? And what *then* will become of your new "Missouri Compromise" about "No more territory?" It will be forgotten or revoked amid the ephemeral turmoil of a Presidential election, while the *new* State, with flying colors, aye! and the black and red banner of slavery, will proudly, arrogantly march into the Confederacy! And such in succession will be the history of every Mexican and Central American State, down to Panama, if the Free States are content with the poor-spirited suicide of "No more territory!" Will the Free States consent to be like Isachar, a strong ass, and stupidly take and patiently bear every burden laid on them by the "Chivalry of the South?" Will they, with the microscopic vision of an ant, detect and creep over the minutest spot on the surface of a dollar, when they ought, with the glance of an eagle looking down from the clouds, to survey the wide plains and Alpine heights of this vast Continent, and to comprehend the mighty moral interests of which it is yet but the cradle? The long-sighted Statesmen of the Old World, who think for centuries in advance, say that *nations never die.* But if the United States adopt for a political axiom, "No more Territory," they will die the death of suicide, the suicide of idiocy! Those who would offer "No more Territory" as a political axiom of Anglo-Saxons on the North American Continent, are fit *Statesmen* for Lilliput.

Our Southern brethren comprehend all this. And while they threaten separation to alarm the patriotic fears of the Free States, they foresee too plainly the result, to rush upon the awful suicide. No! If the march of slavery be stayed, they *will not* leave the Union. They will then cling to it as the sheet anchor of all their earthly hopes, and it will then be stronger than ever. Finding an impassable wall raised around their slavery, excepting for colonization abroad, finding it extinct as an element of political power, they will seriously begin to provide for its extinction as a social institution. No longer an element of political power, it will no longer be what it has been during sixty years, an element of political mischief, a perpetual disturbance, a provocative to "envy, hatred and malice, and all uncharitableness," of "privy conspiracy and rebellion," of "false doctrine, heresy and schism." And then its evil, mischief-making voice will be no longer heard in our national halls; and East, West, North and South, relieved of its malignant influences, will be bound faster than ever in the bonds of fraternity, and as we fervently hope, will so remain, one and indivisible, *E Pluribus Unum,* even till

> "——— The great globe itself shall dissolve,
> And like the baseless fabric of a vision,
> Leave not a wreck behind."

How can the Free States avert the destiny to which the preponderance of the Slave States would undoubtedly subject them? Not by interference with slavery within its present limits. Not by disturbing the present relations of any Slave State. Not by any exercise of the constitutional power in Congress, to prohibit the domestic slave trade among existing Slave States. Wherever slavery now exists, there let it be left to the exclusive control of State authority, in the Old Thirteen States under their reserved sovereignty, in the New States under Congressional concessions and compacts. Sound policy should restrain the Free States from prohibiting the domestic slave trade among the present Slave States; for this is the drain through which Maryland, Virginia, and Kentucky will become Free States, by transferring their portion of the plague to Georgia, Alabama, Mississippi, Florida, Louisiana, Arkansas, and Texas. Then leaving slavery where and as they now find it, fated to die under the immutable physical and moral laws which it violates, and which therefore insure its destruction, the Free States can avert their threatened destiny by union, by cordial co-operation, against the extension of slavery over another square mile of territory. They are the strongest *now*. The sixteen Free States, including Delaware, have thirty-two senators and not less than one hundred and thirty-eight representatives, while the fourteen Slave States have twenty-eight senators and eighty-nine representatives. Under God, the destiny of the Free States is now in their own hands! May God inspire them with wisdom and virtue adequate to the crisis!

And in addition to their interests, have the Free States no character at issue? In the Convention of 1787, Delaware, Maryland, Virginia, and North Carolina, then and still Slave States, nobly vindicated their character as advocates of human rights, by opposing even a temporary toleration of the slave trade, by securing for the Federal Government, even upon the hard condition of this temporary toleration, the ultimate and speedily accruing power to suppress it entirely, and by gladly looking forward to the extirpation of slavery from every portion of the Union. In those days of disinterested patriotism and expansive philanthropy, South Carolina and Georgia stood alone as the champions of injustice and oppression, deaf to the imploring cries of suffering humanity. If Maryland, Virginia, and North Carolina, afterwards fell from the grace which then adorned them, and have become, through the contaminating influences of the slave market, the zealous advocates of wrong, the guilt, the odium, the censure of their seduction, their corruption, lie heaviest on South Carolina and Georgia; for upon them will impartial posterity fix the stain. And the day will come when South Carolina and Georgia will bitterly repent the cupidity which made them prefer separation, foreign alliance and civil war, to relinquishing the wages of oppression; and when they will feel that all the gold which they have extracted from the manacles of slavery, is worthless dross, dust and bitter ashes, in comparison with the *character* which they lost in 1787. Will the Free States, with their present ample power to vindicate the inalienable rights of man, to stay the plague of slavery from infecting and polluting for centuries, the rest of the Union or the rest of the Continent, follow the example of South Carolina and Georgia? Will they become deaf to the voice of justice and humanity, and sacrifice their solemn duties to God, to themselves, to posterity, for some temporary interest of the day, some ephemeral object of partisan policy, or for gold, that "yellow stone" that

> "Will knit and break religions, bless the accursed;
> Make the hoar leprosy adored; place thieves,
> And give them title, knee and approbation,
> With Senators on the bench!"

Let them remember that a future will come, when an impartial posterity will return upon their conduct a righteous verdict, and place them beside South Carolina and Georgia, the willing oppressors of their fellow men for centuries! The willing champions of lawless power! The willing forgers of fetters, manacles, and chains! When that day comes, and come it *will* if they are recreant to their duties *now*, like the conscience stricken Cain they will cry out, and cry in vain, "*Our* punishment is greater than *we* can bear!"